

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In Re:

GOODMAN NETWORKS, INC.,

Debtor. Chapter 7

Case No. 22-31641 (MVL)

THE DEPOSITION OF SCOTT SEIDEL
September 13, 2023

Reported by:

PATRICIA A. NILSEN, RMR, CRR, CRC

Texas CSR 11813

EXHIBIT

BH 73

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1 The deposition of SCOTT SEIDEL, taken on behalf of
2 the FedEx Supply Chain Logistics & Electronics, Inc.,
3 pursuant to Notice on September 13, 2023, beginning at
4 approximately 10:19 a.m. taken remotely.

5 This deposition is taken in accordance with the
6 terms and provisions of the Federal Rules of Civil
7 Procedure. All objections are reserved except as to
8 form, and all sides stipulate to the swearing of the
9 witness remotely.

10 The signature of the witness was not requested.
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1 VIDEOGRAPHER: Good morning. We are now
2 on the record. The time is approximately -- time
3 10:19 a.m. on September 13, 2023.

4 Please note that this deposition is being
5 conducted virtually. The quality of the recording
6 depends on the quality of the camera and Internet
7 connection of participants. What is seen from the
8 witness and heard on the screen is what will be
9 recorded. Audio and video recording will continue to
10 take place unless all parties agree to go off the
11 record.

12 This is the videotaped deposition of Scott
13 Seidel, in the matter of In Re: Goodman Networks, Inc.,
14 Goodman Solutions, filed in the U.S. Bankruptcy Court in
15 the District of Texas, Case Number 22-311641.

16 This deposition is being conducted
17 remotely. My name is Tom Tracy. I represent Veritext;
18 I'm your videographer. The court reporter is Patricia
19 Nilsen, also with Veritext. I am not related to any
20 party in this action, nor am I financially interested in
21 the outcome.

22 If there are any objections to the
23 proceedings, please state them at the time of your
24 appearance.

25 Counsel and all present will now state

1 their appearance and affiliations for the record,
2 beginning with the noticing attorney.

3 MR. HILLYER: Good morning. Cam Hillyer
4 and Adam Langley on behalf of FedEx.

5 MR. RUKAVINA: Davor Rukavina and Thomas
6 Berghman for Mr. Scott Seidel, the deponent.

7 MR. RUZINSKY: Bruce Ruzinsky, with
8 Jackson Walker, for Prosperity Bank.

9 MR. SCHOTTENSTEIN: Noah Schottenstein for
10 ARRIS.

11 MR. GUFFY: Philip Guffy, Hunton Andrews
12 Kurth, on behalf of UMB Bank, National Association, as
13 venture trustee and the majority bondholder group.

14 VIDEOGRAPHER: Thank you, Counsel.

15 The court reporter may swear in the
16 witness, and we can proceed.

17 * * *

18 SCOTT SEIDEL,
19 was called as a witness, and after having been duly
20 sworn, testified as follows:

21 EXAMINATION

22 Q. (BY MR. HILLYER) Good morning, Mr. Seidel.

23 A. Good morning, sir.

24 Q. Thank you for making time for this deposition
25 today.

1 Let's do a test run. Can you see the very
2 first published exhibit?

3 A. I only see myself.

4 MR. RUKAVINA: Go off the record.

5 VIDEOGRAPHER: We're going off the record.
6 The time is approximately 10:22 a.m.

7 (Recess)

8 (EXHIBIT NO. 1, notice of deposition, was
9 marked for identification and attached
10 hereto.)

11 VIDEOGRAPHER: We're going back on the
12 record. The time is approximately 10:24 a.m.

13 Q. (BY MR. HILLYER) Mr. Seidel, do you see
14 Exhibit 1, notice of deposition?

15 A. I do.

16 Q. Okay. That's a good start.

17 So, Mr. Seidel, you are the duly appointed
18 Chapter 7 trustee in the case of In Re Goodman Networks;
19 is that correct?

20 A. Yes, sir.

21 Q. Okay. And this is a notice of deposition that
22 was sent to your counsel on behalf of FedEx and ARRIS,
23 who are the objecting creditors to a 9019 settlement
24 motion which you filed. Correct?

25 A. Yes. Yes, sir.

1 Q. Okay. Okay. Let's initially start, is -- so
2 what's your full name?

3 A. My full name is Scott Mahlon, M-A-H-L-O-N,
4 Seidel, S-E-I-D-E-L.

5 Q. Okay. And how long have you been a licensed
6 attorney, Mr. Seidel?

7 A. '84. Since 1984, sir.

8 Q. Okay. And -- and how long have you been
9 serving in the role as a Chapter 7 trustee?

10 A. I believe approximately 30 years or so.

11 Q. Okay. Have you been a Chapter 7 trustee in
12 commercial and consumer cases?

13 A. Yes, sir.

14 Q. Okay. Have you ever been a Chapter 11 trustee?

15 A. Yes, I have.

16 Q. Okay. Have you ever been a Chapter 11 debtor's
17 counsel?

18 A. Yes.

19 Q. Okay.

20 A. It was a long time, though.

21 Q. I understand.

22 And I'm assuming -- have you ever been a
23 Chapter 7 debtor's counsel?

24 A. Yes, sir.

25 Q. Okay. And when you said 30 years, you're on a

1 panel of Chapter 7 trustees?

2 A. I am. I'm on the panel of the Northern
3 District of Texas, Dallas Division, panel of trustees.

4 Q. Okay. And how long have you been on that
5 panel?

6 A. More than 30 years.

7 Q. Okay. Well, I'm going to skip through all the
8 formalities for the sake of this, about -- I know you've
9 been in depositions before; I know you've taken them. I
10 will try to let you fully answer all your questions --
11 all your answers. I won't speak over you; don't speak
12 over me. If I say anything that you can't understand,
13 or you need clarified, please ask. And other than that,
14 I'm sure this will go smoothly.

15 Do you know the approximate date of your
16 appointment as Chapter 7 trustee in this case?

17 A. I'm sorry, I could -- I can be refreshed by
18 looking at it, but no, I don't offhand know the exact
19 date of my appointment.

20 Q. Okay. So once you were appointed, when did you
21 contact counsel to represent you in this matter?

22 A. I would assume, thinking back, it would be in
23 the first days, if not the first day of being -- being
24 appointed.

25 Q. Okay. And not being specific about the date of

1 appointment, just tell me briefly, once you were
2 appointed, what did you do or undertake as the Chapter 7
3 trustee to become advised of the current status of the
4 case and everything that had -- had occurred up to that
5 point?

6 A. I think I reached out to Mr. Parham; I believe
7 he was debtor's counsel. I was available to be
8 contacted by any creditors, creditor counsel. I may
9 have reached out to creditor's counsel; I don't recall
10 exactly when or who, etc. Kind of pulling this together
11 at this point in time, all this time later.

12 Q. Okay.

13 CERTIFIED STENOGRAPHER: Can you keep your
14 voice up, Mr. Seidel, please.

15 THE WITNESS: Yes, ma'am.

16 Q. (BY MR. HILLYER) And so, Mr. Seidel, do you
17 happen to know an approximate time of when you initially
18 looked at or started assessing what I'm going to call
19 the subject matter of our -- the subject of the
20 contested matter, being the Prosperity Bank --
21 Prosperity payments and subject funds, as they're
22 defined in your motions?

23 A. I think the counsel for the bondholders reached
24 out to my counsel. And I don't have a tremendous memory
25 of that, but it might have been February. I'm not

1 positive.

2 Q. Okay.

3 MR. HILLYER: Adam, go ahead and publish
4 Trustee Prosperity 16.

5 (EXHIBIT NO. 2, letter from Prosperity
6 Bank dated August 31, 2022, was marked for
7 identification and attached hereto.)

8 MR. HILLYER: I think Adam might have -- I
9 think that one may be a mistake. Exhibit 16 instead of
10 Document 16. Sorry. I think we published Exhibit 16,
11 not Bates stamp 16. That was my error. I apologize.

12 MR. LANGLEY: It's there now as Exhibit 3.
13 Exhibit 3.

14 (EXHIBIT NO. 3, e-mail chain, beginning
15 with e-mail from Davor Rukavina dated
16 February 16, 2023, was marked for
17 identification and attached hereto.)

18 MR. HILLYER: I guess the new one will be
19 Exhibit 3.

20 THE WITNESS: Okay. Let me try to get
21 that where I can see it.

22 Okay. I see -- I see -- I have it up.
23 I'm trying to look at it.

24 What can I do for you?

25 Q. (BY MR. HILLYER) Okay. So this is an e-mail

1 from your counsel, dated Thursday, February 16th, with
2 Mr. Silverstein, Mr. Clarke, Mr. Guffy, Mr. Berghman,
3 and your -- and yourself.

4 Does that look correct?

5 A. That looks correct.

6 Q. Okay. And so look at the -- just the top part
7 of the page, is what I'm going to be asking you about.

8 Is -- so basically this is a lead -- this
9 says "The trustee is going to go after the Prosperity
10 Bank money right away."

11 So does this refresh -- refresh your
12 recollection about the time period about when this --
13 settlement negotiations began?

14 A. Well, this is when we're starting to talk --
15 this Prosperity is starting to be on the radar, and I
16 was correct, it was in February. And, yes, it refreshes
17 my recollection with regard to this e-mail.

18 Q. Okay. Would you have done anything before
19 February 16th regarding the decision that the trustee is
20 going to go after the Prosperity Bank money right away?

21 A. I -- I don't recall. I'm sorry.

22 Q. And staying in that same paragraph, it states
23 that as part of your negotiation -- as part of the
24 trustee -- trustee's negotiating with you, meaning --
25 I'm going to call that -- "you" being all the counsel

1 that represents the bondholders, and "the bank" being
2 Prosperity Bank, regarding the funds -- you ask
3 bondholder counsel for an understanding that their claim
4 for the funds that you're proposing to recover would be
5 their perfected collateral. And "perfected" is
6 italicized. Is that correct?

7 A. I'm trying to find it.

8 Yes. Yes, I see it.

9 Q. Okay. And your counsel states, the last -- we
10 can read the whole sentence: "In particular, I
11 understand the funds, which began in a money market
12 account, were not subject to an account control
13 agreement, and I don't think anyone can have a perfected
14 lien in a Chapter 5 (although maybe TUFTA is a business
15 tort)."

16 And what I'm going to ask you is -- so in
17 February -- on February 16th, have you already begun
18 looking into not only the funds that you are -- the
19 Prosperity Bank money that you're proposing to go after;
20 have you already begun doing a lien assessment as to
21 those funds?

22 A. I believe our team is doing that.

23 Q. Okay. Do you know what documents you would
24 have had on February 16 of 2023 to look into that?

25 A. I'm not positive anything and everything the

1 team had at that point -- at that exact date. Sorry.

2 Q. Okay. But sitting here today, you can't -- are
3 you able to say what -- any documents that -- that you
4 had, that you were using at this point in time regarding
5 this, or was this just -- strike that. I'll rephrase
6 it.

7 Is this just the intro e-mail to -- to the
8 bondholders to start negotiations?

9 A. I'm not positive. It very well could be. But
10 I'm just not positive. I don't have the -- the litany
11 of what may have been before or after.

12 Q. Okay. Well, it -- then I'll ask you this
13 question: You produced all documents in your possession
14 or your counsel's possession to us in response to our
15 request for production of documents. Correct?

16 A. Yes.

17 Q. So if there are no e-mails in that production
18 that predate February 16th regarding the Prosperity Bank
19 money and the bondholders' asserted perfected
20 collateral, then this would be the first discussion that
21 you had?

22 A. It would appear so, from what -- yeah. I mean,
23 in other words, this is the e-mail -- you asked for the
24 e-mails; this is the e-mail. It looks like the initial
25 e-mail was from Mr. Silverstein. You had the time to

1 discuss, you know, this matter, etc. So I -- I don't
2 have any reason to think there's other e-mail contact.

3 Q. Sure. Thank you.

4 And the bank's -- the bank or the bank's
5 counsel is not on this particular e-mail chain, correct?

6 A. Correct.

7 Q. Okay. So at this time are you negotiating
8 independently with the bondholders -- obviously by this
9 e-mail -- are you also communicating with Prosperity
10 Bank regarding going after the money?

11 A. Sorry. I just don't recall --

12 Q. Okay.

13 A. -- whether on February 16th we were already
14 talking to Prosperity as well at that point.

15 Q. Okay. Well, I -- and I'm -- I'm certainly not
16 trying to trip you up on it. I'm just basically asking,
17 did -- did you -- did the negotiations start with the
18 bondholders first and then the bank second, or did you
19 reach out to the bank first and then now you're reaching
20 out to the bondholders?

21 A. My general recollection for the team -- and we
22 had several of us working on this, but -- was that we
23 were contacted by Mr. Silverstein about money at
24 Prosperity. And so we initiated that contact and
25 started talking with them. And then probably as a

1 consequence Prosperity got looped in to the conversation
2 vis-à-vis the bondholders.

3 And that's how it probably progressed.
4 But I stand to be corrected, if you show me e-mails that
5 say something different.

6 Q. I appreciate that clarification.

7 MR. HILLYER: Adam, go ahead and
8 publish -- this is going to be Bates stamp 341.

9 (EXHIBIT NO. 4, e-mail chain, beginning
10 with e-mail from Davor Rukavina dated
11 February 21, 2023, was marked for
12 identification and attached hereto.)

13 Q. (BY MR. HILLYER) This should be published as
14 Exhibit 4.

15 A. Okay.

16 Q. Do you have that?

17 A. I have it. I'm --

18 Q. Okay.

19 A. -- almost getting it where I can read it.

20 Okay. "We're having a meeting late
21 today."

22 Q. Yes. Correct. Okay. So this is approximately
23 five days after the e-mail that you just looked at, of
24 February 16th, that was Exhibit 3. And this e-mail
25 is -- again, this is your counsel to Mr. Schaffer -- who

1 was not on the first e-mail -- Mr. Silverstein, and
2 Mr. Guffy. Correct?

3 A. Yes, sir.

4 Q. Okay. And you were not on this e-mail?

5 A. No, sir. Not that I see.

6 Q. Okay. And this e-mail, as you already read,
7 says "We're having a meeting late today."

8 I'm going to ask you a question: Do you
9 know who was meeting? With the understanding that
10 you're not on this e-mail.

11 A. Let me read the e-mail, then, okay?

12 Q. Sure.

13 Mr. Seidel, I certainly wasn't making --
14 trying to make you read the whole thing. The bottom of
15 the page may be insightful.

16 A. Okay. That's helpful, yeah. Okay. So the
17 bottom of the page.

18 Eric Schaffer. Okay. So I'm just not
19 positive, but -- that's your question? Who's meeting?

20 Q. Yes. I'm sorry, I'll repeat it.

21 Based on reading the bottom of the page,
22 is that a fair assumption that Mr. Rukavina is saying
23 that -- that he is meeting with counsel for Prosperity
24 Bank later in the day?

25 A. Could be. Yes, sir.

1 Q. Okay. And going down the e-mail, Mr. Rukavina
2 proposes an agreed surcharge amount to bondholder
3 counsel. And he proposes a first alternative of
4 \$1 million out of the Prosperity funds, although -- and
5 knowing full well that is not a defined term in this
6 e-mail, so I don't want to make that an issue.

7 But it is a first alternative of -- of
8 \$1 million, and a full release of any surcharges in the
9 future; or a second alternative of \$500,000 with no
10 waiver of future potential surcharge claims.

11 Does that look accurate?

12 A. That's what it appears to say, yes.

13 Q. Okay. And is that a decision that you made at
14 this point?

15 A. Mr. Rukavina and I were talking daily about the
16 matter. So we were -- we were in lockstep on that.

17 Q. Okay. And I'm going to ask you: You're
18 proposing a surcharge from the bondholders. Are you
19 implying in this e-mail that you want a surcharge of
20 collateral?

21 A. Surcharge of collateral.

22 Q. Okay. So what I'm asking you is on
23 February 21, have you made a determination about your
24 inquiry from Exhibit 3, which is, "We would like an
25 understanding that the funds would be your perfected

1 collateral"?

2 A. It was ongoing. I don't know that we had
3 reached a conclusion.

4 Q. Okay. So you're asking them for a surcharge,
5 but you have not made any determination if the
6 Prosperity funds are their collateral at this time?

7 A. I don't recall.

8 Q. Okay. Hang on one second.

9 All right. Before we go off this, I
10 just -- I know you can't recall, but I'm just asking:
11 You have extensive bankruptcy experience, correct?

12 A. Yes.

13 Q. Okay. You know what a surcharge is?

14 A. Yes.

15 Q. Okay. I'm asking you, how can -- how can you
16 help me read this that if you're asking for a surcharge,
17 that you're not making the statement that it is the
18 bondholder's collateral?

19 A. You can -- you can take that assumption in
20 there with that, but I don't -- I don't know that we
21 make a definitive statement to that effect.

22 Q. Okay. One sec. Okay.

23 I guess what I'm asking is, why did you
24 call it a surcharge? Or why did your counsel call it a
25 surcharge?

1 A. If the bondholders were taking a position
2 they -- it was their collateral, there's a lot of
3 negotiations going on back and forth at the beginning,
4 since everybody's trying to feel each other out, figure
5 out where everybody is.

6 Q. Okay. And -- and that's where I wanted to go,
7 Mr. Seidel. So on February -- I've got a first e-mail
8 where you're reaching out to them -- strike that.

9 You're reaching out to bondholder counsel
10 on February 16th. And then five days later, you are
11 asking for a surcharge. So I'm going to ask you: What
12 changed between February 16th, where you want their
13 understanding of the, quote, "perfected collateral," and
14 your counsel's statement, "I don't think anyone can have
15 a perfected lien in a Chapter 5," to then asking for a
16 surcharge five days later?

17 A. My assumption -- like I said, I'm not sure in
18 that five-day period, the dates that you're mentioning.
19 But at some point in time my team was looking at various
20 documentation with regard to the bondholders' claims and
21 visiting with the bondholders with regard to their
22 claims.

23 Q. Okay. What documents were you reviewing during
24 that five days?

25 A. I -- I don't recall. I can't -- I can't tell

1 you under oath that on February 16th of '20, I looked at
2 such-and-such a document from such-and-such a bank.
3 I -- I just can't. My team may have, but I -- I just
4 don't know.

5 Q. Okay. So -- but if your team is looking in at
6 documents and then making proposals to the bondholders,
7 you're being kept abreast of what they are doing and
8 what they are reviewing, and you are authorizing the
9 proposals, correct?

10 A. Correct.

11 Q. Okay. And so I guess what I'm asking you is if
12 you don't recall, but this is your counsel, so are you,
13 you know, essentially adopting this e-mail as sent on
14 your behalf?

15 A. That e-mail is sent on my behalf.

16 Q. Okay. But to be clear, sitting here today, you
17 don't know what documents you had in your possession on
18 February 21st of 2023?

19 A. I can't testify to what documents I had in my
20 possession on February 21st, 2023.

21 Q. All right. Let's move on.

22 MR. HILLYER: Adam, can you put Exhibit --
23 this will be Exhibit 5. It's Bates stamp 368.

24 (EXHIBIT NO. 5, e-mail from Paul

25 Silverstein dated February 22, 2023, was

1 marked for identification and attached
2 hereto.)

3 MR. HILLYER: It should be populated.

4 MR. RUKAVINA: We're not hitting the
5 button that says "Refresh." There it is.

6 A. Okay, Counsel.

7 Q. (BY MR. HILLYER) And --

8 MR. RUKAVINA: This is --

9 THE WITNESS: Notice of -- notice of the
10 deposition? Is that what we're ...

11 MR. RUKAVINA: Cam, which one were you
12 publishing? Exhibit 5?

13 MR. HILLYER: Exhibit 5. It will be
14 trustee's --

15 MR. RUKAVINA: We got it.

16 THE WITNESS: We're catching up to you.
17 We'll figure this out by the end of the day.

18 Q. (BY MR. HILLYER) I was about -- you stole --
19 you stole my statement, not question, that I promise
20 you, you pick up speed going through this. So by the
21 time at the end, we are going to be fluent in
22 exhibit share.

23 So this -- this appears to be an e-mail
24 from Mr. Silverstein to Mr. Rukavina, copying
25 Mr. Schaffer and Mr. Guffy, one day later, advising you

1 that "Unless there's a quick and easy resolution," that
2 you, being the trustee, "are making a mistake not having
3 John Goodman demand that Prosperity release the funds,
4 as I requested."

5 So what I'm asking is --

6 A. I'm going to stand up so I can read the -- the
7 document, real quick.

8 Q. Sure.

9 A. Okay. I've read it now. Thank you. I'm
10 sorry, this is -- anyway, I'm with you.

11 MR. RUKAVINA: Hold on a second. Could we
12 maximize this screen? Just give us a second. "View
13 full screen."

14 THE WITNESS: Yeah, that's better.

15 A. Okay. I'm with you, sir.

16 Q. (BY MR. HILLYER) All right. Thank you.

17 So this is a one-day turnaround from
18 Mr. Silverstein to Mr. Rukavina's e-mail requesting the
19 alternatives for surcharge. And again, Mr. Silverstein
20 says that "you're making a mistake not having John
21 Goodman demand Prosperity release the funds."

22 And so I'm just going to ask generically,
23 what is being -- to the best of your knowledge, what is
24 being discussed right now, in February of '22, in
25 conjunction with -- the previous e-mail is a surcharge

1 demand, and then this is about demanding a release of
2 the funds. Help me understand what negotiations are
3 going on.

4 A. There's negotiations by and between us and the
5 bondholders with regard to bringing up them -- what they
6 assert is their money at Prosperity, and whether or not
7 we can't -- that money can flow in that direction.

8 Q. Okay. And I will ask you the same question as
9 before: So are these -- and I'm using the word
10 "bifurcated," because I haven't seen e-mails yet with
11 all accounts, with both settling parties involved.

12 So are -- is your team dealing exclusively
13 with the bondholders, and then your team dealing
14 independently with Prosperity, working both parties but
15 not simultaneously a three-way discussion?

16 A. Could you repeat that question? I apologize.

17 Q. No, I'm sure -- I'll clarify.

18 I'm just asking, the bondholders are
19 asking for a report on a call with Prosperity. Let's
20 just stop there. Were you on that call?

21 A. I don't believe I was on that particular call.

22 Q. Okay. Would it be a safe assumption that the
23 bondholder counsel was not on that call, since they're
24 asking for an update?

25 A. It would be a safe assumption on my -- I would

1 think on our part.

2 Q. Okay. So then my question is, is are you -- at
3 this point, in February of '22, your team is negotiating
4 separately with the bondholders and separately with
5 calls with Prosperity Bank, but the three parties have
6 not been brought together at this point?

7 A. It would appear so, from the --

8 Q. Okay.

9 MR. HILLYER: Let's introduce Exhibit 6,
10 which is going to be Trustee Bates starting at 390.

11 MR. RUKAVINA: Let's see if it pops up by
12 itself.

13 MR. HILLYER: You have to be a little bit
14 patient on -- on the -- on the population. By the
15 time -- it takes a second. It should be in there now.

16 THE WITNESS: Thank you.

17 MR. RUKAVINA: Give us a second. We'll
18 see if it pops up.

19 THE WITNESS: I don't think it ever pops
20 up.

21 MR. RUKAVINA: It did last time. Didn't
22 it last time?

23 THE WITNESS: It populated, but you still
24 have to open it, from my understanding.

25 I don't think it ever pops up, does it,

1 Cam?

2 MR. HILLYER: I don't believe it will
3 automatically pop up, but I am -- I am not the person
4 that you should be asking that question to.

5 Adam is shaking his head "no," it will not
6 pop up, so I'm going to -- I'm going to take that.

7 (EXHIBIT NO. 6, e-mail chain, beginning
8 with e-mail from Davor Rukavina dated
9 February 23, 2023, was marked for
10 identification and attached hereto.)

11 MR. RUKAVINA: And you're -- and you're
12 going to populate, or whatever, publish Exhibit 6,
13 right?

14 MR. HILLYER: Yes, but Exhibit 6 should be
15 in there.

16 MR. RUKAVINA: My problem, Cam, is it's no
17 longer giving me the option to refresh. I don't -- I
18 don't understand it, so we'll just give it another
19 minute.

20 MR. HILLYER: I'll tell you what: Let's
21 just jump off the record real quick and make sure that
22 Veritext can help you. There shouldn't be that big of a
23 lag. There -- there's normally a -- you know.

24 VIDEOGRAPHER: We're going off the record.
25 Hold on. Hold on.

1 THE WITNESS: Now we got it.

2 MR. RUKAVINA: Yeah. We got it now, Cam.

3 THE WITNESS: It -- it just takes a while.

4 MR. RUKAVINA: Yeah. It just takes a
5 while. Okay. We'll just be patient.

6 Are we off the record?

7 MR. HILLYER: No. We don't need to go off
8 the record at this point, if you -- if you got it.

9 MR. RUKAVINA: Okay. There we go.

10 THE WITNESS: It takes a minute. I'll try
11 to be patient.

12 A. Okay. I have this particular document.

13 Q. (BY MR. HILLYER) This should be -- I believe
14 it's a three -- three-page exhibit, with the third page
15 essentially being meaningless, signatories.

16 But if you'll flip to the second
17 page, 391.

18 A. 391. Okay, that's helpful. Okay. From
19 Silverstein to Davor, with Schaffer copied, etc.?

20 Q. Yes, on the bottom.

21 So that -- "Davor: We'd like a reporter
22 on your call with Prosperity that you're indicating you
23 were having." Okay.

24 That is -- if you'd like to flip back, or
25 you can take my representation -- that is the singular

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1 e-mail that was Exhibit 5. So this, starting at 390, is
2 the next e-mails in the chain, from Bates number 368,
3 where they are -- where the bondholders' counsel is
4 asking for a report.

5 And your counsel -- and your counsel says
6 "I will inquire again." And then Mr. Silver --
7 Mr. Silverstein, going to -- this is on the first page
8 of it -- says he does not understand Mr. Rukavina's
9 response -- or doesn't understand the message, and again
10 asks for a call -- a report on the call discussion with
11 Prosperity.

12 And we go up to the top part of the
13 e-mail, where Mr. Rukavina apparently -- it looks as if
14 he gave an update to bondholders' counsel. And I'll let
15 you take a second and read that top paragraph. I don't
16 believe you're copied on this e-mail.

17 A. I've read it.

18 Q. Okay. So on the first part, Mr. Rukavina
19 recaps the meeting with Prosperity's lawyer at Jackson
20 Walker. Says "I delivered our ultimatum and informed
21 them that, if we don't have a deal next week, we will be
22 filing suit (as coplaintiffs) by next Friday."

23 What ultimatum did you give Prosperity's
24 counsel on February 22nd?

25 A. Something to the effect of turning over the

1 funds at -- at Prosperity.

2 Q. Okay. Do you -- do you -- is that the extent
3 of the ultimatum?

4 A. I don't recall.

5 Q. Okay. So did you approve the ultimatum?

6 A. Yes. We were -- I was in contact with
7 Mr. Rukavina about the negotiation process. I wasn't in
8 every single -- I mean, as you know, there was hundreds
9 of back and forth with regard to all this. But there
10 was a range at that time; we were talking about where we
11 were going to file complaints, etc.

12 Q. Okay. So if I represent to you that there
13 is -- as of February 23rd, in your production, there is
14 no e-mail chain with Prosperity regarding an ultimatum,
15 what would you say to that?

16 A. Well, let me look at this again.

17 And I'm sorry, I -- I don't understand
18 the -- the question itself. I mean, the fact that there
19 wasn't an e-mail with an ultimatum doesn't mean that
20 there wasn't an e-mail -- I mean, an ultimatum that was
21 conveyed.

22 Q. Okay. Well, let me ask you, following that
23 line is was the ultimatum -- is it your understanding
24 that the ultimatum was made at the meeting with
25 Prosperity?

1 A. That's what it seems like, according to this
2 e-mail.

3 Q. Okay. But there -- but if it's not in your
4 production, there is no e-mail or documentation of an
5 ultimatum.

6 A. Okay.

7 Q. The second line says "We will be filing suit
8 (as coplaintiffs)."

9 Can you explain that to me?

10 A. Yeah. We were contemplating filing suit as
11 coplaintiffs with regard to getting money out of
12 Prosperity.

13 Q. Okay. Can you explain to me -- strike that.

14 What would the legal basis be for the
15 trust -- Chapter 7 trustee and the bondholders being
16 coplaintiffs? What would you be trying to recover as
17 Chapter 7 trustee?

18 A. The moneys in the Prosperity account.

19 Q. What would the bondholders be trying to recover
20 as coplaintiff?

21 A. The moneys in the Prosperity account.

22 Q. So both plaintiffs would be trying to recover
23 the same funds?

24 A. Correct.

25 Q. Okay. And did you -- okay. Were you involved

1 in any discussions with bondholders' counsel regarding
2 this complaintiff lawsuit?

3 A. I really don't recall, sitting here today, back
4 at that point in time, whether I was involved. I had
5 contact with Mr. Silverstein, had e-mails, had talked to
6 him, but I can't swear under oath that -- I don't know.

7 Q. Your counsel states, in the middle of the
8 paragraph, "I pointed out that I do not see a principled
9 defense, and they had no answer."

10 Do you see that?

11 A. Yes, sir.

12 Q. Okay. So at -- on February 23rd, is it your
13 position that Prosperity Bank had no principled defense
14 to your demand for the money?

15 A. "They mumbled some defense to the bond
16 trustee's claim to the effect that they did no wrong
17 after the UCC" -- "pointed out that I do not see a
18 principled defense, and they had no answer."

19 CERTIFIED STENOGRAPHER: I'm sorry, I'm
20 sorry. If you're reading, your hand is in front of your
21 face.

22 THE WITNESS: I'm sorry. You're
23 absolutely right.

24 A. No defense -- no principled defense to turning
25 over the money, is what I see.

1 Q. (BY MR. HILLYER) Thank you.

2 The last line of the e-mail says, "Please
3 respond to the trustee's agreed 506(c) offer."

4 Do you see that?

5 A. I see that.

6 Q. Okay. And to be clear, that's relating to the
7 e-mail in which you proposed two options for a
8 surcharge.

9 A. I think that's fair.

10 Q. Okay. And at this point, you -- you haven't
11 had a response from the bondholders. That would be
12 fair?

13 A. I think that's fair.

14 Q. Okay. Just to help me out, why are you
15 negotiating with Prosperity in answering to
16 Mr. Silverstein with updates at this point?

17 A. I think we were contemplating a united front on
18 this with regard to Prosperity.

19 Q. And to be clear, you're talking about a united
20 front between the Chapter 7 trustee of Goodman Networks
21 and the bondholders who are asserting a perfected
22 secured claim in the collateral?

23 A. I believe we were contemplating that at that
24 time.

25 Q. At this point --

1 A. In other words -- I'm sorry. In other words, I
2 believe that Prosperity thought that the money either
3 belonged to the bondholders or the trustee, and so we
4 were trying to show Prosperity that -- let's have some
5 type of agreement, obviate a bunch of attorneys' fees,
6 etc., and work through this.

7 I think that's what -- the general
8 consensus of what's going on right now, Counsel. Just
9 trying to help you.

10 Q. And I'll ask you again: You're asking about a
11 surcharge. So at this point you said a united front.
12 And I want to understand, is -- is that united front
13 based on the premise that the bondholders have a
14 perfected lien on these funds and that you are going to
15 get a surcharge? Is that the -- what the basis of the
16 united front is?

17 A. No. There was -- I don't know all of the
18 elements that went into it, Counsel. But -- but what
19 we're trying to do is get the money out of Prosperity in
20 kind of a three -- three-legged agreement. And so
21 there's -- there was negotiations that went into all
22 that, how that was all going to roll out.

23 Q. Okay.

24 A. In other words, we had Prosperity -- if we --
25 if we had the trustee saying "give me all the money,"

1 and we had Prosperity saying "give me all the money,"
2 Prosperity was going to do nothing, right? So we were
3 trying to formulate a plan to knock down debt, to roll
4 out money and obviate fees.

5 Q. Okay.

6 A. Boil it -- boil it down, see what we can do
7 to -- got 100 things going on. Focus on the bad guys.

8 So -- I'm sorry if I just kind of waxed
9 eloquent.

10 Q. That's fine.

11 A. But you're -- you seem to be asking for kind of
12 that overlay of the situation.

13 Q. I appreciate your answer. Thank you.

14 MR. HILLYER: Let's go to Exhibit 7. No,
15 no, I'm sorry; this will be Exhibit 7. It is
16 Bates-stamped 406.

17 I apologize. I've got to stop saying
18 that.

19 (EXHIBIT NO. 7, e-mail chain, beginning
20 with e-mail from Victoria Argeroplos dated
21 March 1, 2023, was marked for
22 identification and attached hereto.)

23 MR. HILLYER: Exhibit 7 is published.

24 Q. (BY MR. HILLYER) Do you have it now?

25 A. No.

1 CERTIFIED STENOGRAPHER: If you're using
2 an Internet browser, you can just refresh the browser.

3 THE WITNESS: Yeah, you're talking to a
4 bunch of idiots --

5 MR. RUKAVINA: You're -- you're assuming I
6 know how to refresh a browser.

7 THE WITNESS: You've got two computer
8 idiots here.

9 I can do it on mine, and at the break,
10 I'll pull mine up. It might be faster.

11 MR. RUKAVINA: What button refreshes the
12 browser? Got to download that exhibit, too? There it
13 is.

14 THE WITNESS: There you go. Let's hear
15 it.

16 Trying to make it where I can read it.

17 A. Okay. I'm with you, Counsel.

18 Q. (BY MR. HILLYER) This should be a three-page
19 exhibit.

20 A. This is -- this is from Victoria, Wednesday,
21 March 1, 2023, to Davor, Brenda, carbon copy Scott,
22 "Goodman Prosperity escrow." Correct?

23 Q. Yes. That is the first e-mail chain. So what
24 I -- what I would like you to do is actually -- it's an
25 e-mail chain, obviously, in reverse chronological order.

1 So if you'll go to the end, which is 408.

2 A. Okay, I will.

3 That's 407. Here's 408. Okay. You want
4 me on Brenda Funk's signature.

5 Q. Okay. So this is a -- I apologize for the page
6 breaks, but this is a rollover from the previous page.
7 This is an e-mail from Brenda Funk to Victoria
8 Argeroplos, who is an attorney at Jackson Walker and
9 represents Prosperity Bank, thanking her again for the
10 call on Thursday and asking, "Do you have an ETA on the
11 documents you are going to send us?"

12 Do you see that?

13 A. I do.

14 Q. Okay. What documents are outstanding on
15 February 18th that you have requested?

16 A. I don't recall.

17 Q. I'm not looking for specifics here, Mr. Seidel,
18 like a -- an agreement number. What are -- you
19 don't have -- sitting here today, you don't have any
20 idea what documents you were requesting from the bank?

21 A. I don't have any idea what documents my
22 counsel, Ms. Funk, is requesting of Victoria in her
23 e-mail of February 18, 2023, at 4:17.

24 Q. All right. Moving up the e-mail chain, it
25 looks like Ms. Funk provides Ms. Argeroplos a DACA. Do

1 you see that?

2 A. Okay. "Hi Victoria - moving this to the top of
3 your inbox."

4 Yeah, I see the word "DACA."

5 "Also, in case you do not have a copy,
6 attached is the DACA for the account." Is that what
7 you're talking about?

8 Q. Yes.

9 A. Yes, sir.

10 Q. So your -- so your counsel is providing
11 documents to Prosperity Bank at the same time?

12 A. On February 20th, to Victoria. Correct.

13 Q. Okay. And then go to the first page of it,
14 which is 406.

15 A. 406. Okay.

16 Q. And start at the bottom, please.

17 It's Ms. Argeroplos checking in with
18 Ms. Funk, and again stating, please let her know if
19 there are issues providing the discovery materials
20 because "I know that will be important for the bank to
21 understand both this situation and the situation that
22 they are in now -- now in with the affiliates."

23 Do you see that?

24 A. I see that.

25 Q. Okay. And I will ask you again, to the best of

1 your knowledge right now, what discovery materials are
2 you -- is the -- is trustee and trustee's counsel
3 providing to Prosperity Bank at this point?

4 A. I don't recall.

5 Q. Okay. Go up to the middle of the page, and
6 said -- your counsel advises Prosperity's counsel that
7 "we" -- being you -- "are preparing the complaint."

8 Do you see that?

9 A. I see it.

10 Q. Okay. And at the very top of the page, bank
11 counsel responds to Mr. Rukavina and says that the bank
12 needs more time -- no, I'm sorry, that she needs more
13 time in order to recommend to the bank that they accept
14 your settlement proposal.

15 Do you see that?

16 THE WITNESS: Is that it?

17 MR. RUKAVINA: Yeah, but it's easier if
18 you look up here.

19 You're dealing with two people, Cam, that
20 can't see up close and that can't see up far.

21 A. Okay. Are you talking about the one -- "Thanks
22 Davor, As I said, I need some time"? Is that what you
23 want me to read, sir?

24 Q. (BY MR. HILLYER) No, I -- I don't need you to
25 read it, Mr. Seidel. I tried to just read it to me. It

1 says that -- it says "recommend to the bank that they
2 accept your settlement proposal."

3 Do you see that?

4 A. That's what I'm looking for. No, that --

5 Q. It's the very first line of the e-mail.

6 A. I -- I overlooked it; I was going too fast.
7 You're right. That's what it says.

8 Yes, sir. I see it.

9 Q. Okay. What are the terms of that settlement,
10 and when was it proposed?

11 A. I don't recall, on March 1, 2023, what the
12 exact terms of that proposed settlement were, sitting
13 here today. There's a lot of back-and-forth. I don't
14 recall.

15 Q. Mr. Seidel, I -- I guess -- this is
16 Bates-stamped 406, and is March 1st. What I'll
17 represent to you is there is not a settlement proposal
18 e-mail chain in this. And I believe we discussed this
19 earlier, is -- who is making settlement proposals, and
20 what were the terms of that proposal, if they're not
21 documented at all?

22 A. That -- that's what I'm saying. They were
23 being conveyed by me through my counsel, and I don't
24 recall the exact nature of this particular proposal at
25 this point in time, sitting here today.

1 Q. Okay. Bank's counsel advises that she talked
2 to Eric Schaffer yesterday and discussed the preparation
3 of a global 9019.

4 A. Okay.

5 Q. So now all -- all three parties are talking
6 together at this point, on March 1st. Is that a fair
7 assumption?

8 A. I don't know if they're talking together, but
9 they're all kind of moving in the same direction, it
10 seems.

11 Q. Well, trustee's counsel is talking to the bank
12 and to the bondholders.

13 A. Right.

14 Q. The bank -- the bank is talking to you and the
15 bondholders, and the bondholders are talking to the bank
16 and to the trustee's office. So everyone is
17 communicating simultaneously now. No parties are being
18 excluded from communicating with another party, is what
19 I'm asking.

20 A. I don't think we ever excluded any parties.
21 But yeah, at this point in time, it looks like
22 everyone's running together.

23 Q. And so again, sitting here today -- let me ask
24 you this, Mr. Seidel. So if you've conveyed a
25 settlement -- settlement proposal to the bank, okay, you

1 don't know, right, sitting here today, what the
2 settlement proposal that you made, or your counsel made,
3 on or before March 1 is. Is that correct?

4 A. I can't recall the exact terms of this
5 particular settlement proposal, sitting here today.

6 Q. Okay. Would they -- would they be the same
7 terms that -- strike that.

8 Would they be the same terms that were
9 incorporated into the first settlement motion that you
10 filed?

11 A. That would be a fair assumption. I don't
12 recall that there was a lot of modifications, but I'm
13 under oath, so I want to make sure I'm accurate.

14 Q. Okay.

15 A. But I don't have a problem making that
16 assumption. I think that was the deal. But I want you
17 to know that's my general recollection.

18 Q. Okay. So -- so just general terms of the first
19 offer you would have made. Or better yet --

20 A. Yeah.

21 Q. -- what's your understanding of the general
22 terms of the first offer that you made as Chapter 7
23 trustee?

24 A. Well, I think it -- I'm sure -- the first offer
25 I made to anyone with regard to anything with regard to

1 any of this? Is that what you're saying?

2 Q. I'm sorry, say that again?

3 A. I'm sorry. Will you just re-ask your question?

4 That way --

5 Q. Sure.

6 What -- on March 1st, what is your
7 understanding of the general terms of the first offer
8 that you made to Prosperity Bank?

9 A. See, I'm not sure if March 1st was the first
10 offer. But the offer that I think is being contemplated
11 in the March 1st e-mail is along the lines of what was
12 envisioned in the 9019 that was originally filed.

13 Q. Okay. And if you are making that offer on or
14 before March 1st, then you -- is it fair to say that you
15 concluded all your investigation and analysis regarding
16 this settlement that was proposed by March 1st?

17 A. I don't know -- I don't know about that.
18 That's an ongoing process, a settlement negotiation.

19 Q. Okay. But do you typically, as a Chapter 7
20 trustee, propose settlements before you've done an
21 investigation?

22 A. There's -- it's an ongoing process with regard
23 to settlements, and that's going on, you're talking
24 about settlement as you're looking at documents, as
25 you're hearing positions. It's all an ongoing process

1 until the judge gavels it down.

2 Q. Okay. I guess, if you proposed a settlement,
3 and they respond "accepted," then you have a settlement.
4 Is that your understanding of how it works?

5 A. No. Not with me. I always put in my 9019 the
6 trustee may withdraw from this settlement at any time
7 for any reason, if he decides, at his discretion, that
8 it's in his best interest to do so.

9 So it's -- with me, it's always an ongoing
10 process. Hearing from creditors, taking input from
11 others, on and on and on. And somebody may walk in at
12 the last minute with a better deal. I -- I can always
13 get out. I always put that in my motions, and I'm fine.

14 Q. I understand. Thank you.

15 So let me ask it in a different way:
16 Is -- if you -- well, let me start with this: Do you
17 have any reason to dispute that you have made a
18 settlement proposal, on or before March 1st, to the
19 Prosperity Bank?

20 A. I don't recall on the set dates of when the
21 settlement proposal -- can we take a break? We've been
22 going --

23 MR. RUKAVINA: Yeah, Cam, when you -- when
24 you come to a convenient stop, we'll take a break.
25 We've been going an hour and a half.

1 MR. HILLYER: Sure. How long a break do
2 you need?

3 MR. RUKAVINA: Ten minutes is fine.

4 MR. HILLYER: Ten minutes is good. All
5 right. Thank you.

6 VIDEOGRAPHER: We're going off the record.
7 The time is approximately 11:28 a.m.

8 (Recess)

9 VIDEOGRAPHER: We're going back on the
10 record. The time is approximately 11:43 a.m.

11 THE WITNESS: I don't hear anyone, but I'm
12 ready.

13 MR. HILLYER: Talking to myself on mute.
14 My bad.

15 THE WITNESS: Davor picked up on that. He
16 said, "I think Cam's talking."

17 MR. HILLYER: All right. Apologies.

18 Q (By Mr. Hillyer) Mr. Seidel, we're still on
19 Exhibit 7, which is the Bates stamp 406 through 408.
20 I'm trying to get a general understanding -- we've
21 talked about the settlement proposal and the terms. And
22 I'll ask a question a different way, with a preface that
23 this e-mail chain -- and you're welcome to look at it --
24 is Ms. Funk is asking the bank for documents that they
25 have not sent to trustee's counsel. Your counsel is

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1 sending the bank documents that they should have. And
2 then the bank is then replying that -- "Please provide
3 the discovery materials that's important for the bank to
4 understand this situation."

5 And so I'm going to ask you, in light of
6 all that, what is your understanding of what information
7 you had at this time?

8 A. We had the DACA. We had the bondholders' input
9 with regard to the situation. We had Prosperity's input
10 with regard to the situation. I -- I don't know what
11 else.

12 Q. Okay.

13 A. Bank statement.

14 Q. Okay. So again, I'm going to ask you, just to
15 clarify, a DACA is a -- is a written document executed,
16 correct?

17 A. Correct.

18 Q. Okay. Bank statements are actual documents
19 that you would have in your possession that are bank
20 statements as the Chapter 7 trustee, correct?

21 A. Yes.

22 Q. Okay. The other items that you -- my
23 understanding of what you just said is "input"; is that
24 written input and documents that had been produced? Or
25 are you talking about all of these phone calls that

1 are -- that are mentioned in these e-mails we've looked
2 at?

3 A. I think primarily in addition to what you just
4 mentioned, majority is phone calls.

5 Q. Okay. So your understanding is you had a DACA,
6 bank statements, and input from phone calls, as of
7 March 1?

8 A. I don't know what else. I mean, that's
9 honestly a pretty tough question. For a time --
10 specific time, date, some months ago, what documents I
11 had at that time, you should have them. We should have
12 shared them with you. But that's my recollection,
13 generally speaking.

14 Q. All right. What I'm -- it is -- it's certainly
15 not a trick question, Mr. Seidel. I'm -- I'm trying to
16 assess --

17 A. I understand.

18 Q. I'm trying to assess what your understanding is
19 of what you had when this first settlement proposal
20 was -- was made. And just to the extent is -- other
21 than what you've just said, you're not aware of -- of
22 anything else that you would have had, as of March 1st,
23 when the settlement proposal was made?

24 A. I think that's generally -- and I don't recall
25 any.

1 Q. Okay. Well, I'm not asking if you -- I'm
2 saying, as your understanding, you don't know if you had
3 anything else?

4 A. I'm not positive, under oath, that I had
5 anything else, no.

6 Q. All right. Well, if you had anything else as
7 of March 1, you would have produced it in the request
8 for production, correct?

9 A. I would have thought so, yes.

10 Q. Okay. And so still looking at the -- the first
11 line, but we can move off of this e-mail.

12 So you've made a settlement, your
13 office -- or your counsel has made a settlement offer to
14 Prosperity Bank, at least as of March 1. The previous
15 e-mail, without having you to go back, is as of
16 February 23rd, your offer delivered an ultimatum, which
17 is -- I think we read the e-mail -- delivered an
18 ultimatum to the bank.

19 Do you know right now, with this line, the
20 preparation of a global 9019, where are -- where are you
21 in your discussions with the bondholders right now?

22 A. That was ongoing.

23 Q. Okay. So as of March 1st, you had not resolved
24 the issue of your proposed surcharge?

25 A. I think that's fair.

1 Q. Okay. How -- without resolving that surcharge
2 issue, how do you make a settlement proposal to the
3 bank?

4 A. We're trying to get money in, to have something
5 to wrestle about. And so it's all -- you know, it --
6 you're spinning plates. So we're trying to -- trying to
7 get this one in the boat, get that money in the boat,
8 then we got -- then we talk to the -- if we're sitting
9 on \$4.4 million in bondholders' money, and I hold it,
10 got to be able to make change, trying to get the money
11 in.

12 Q. What was your --

13 CERTIFIED STENOGRAPHER: I'm sorry, could
14 you repeat that? It was very low.

15 THE WITNESS: Yes, ma'am. I'm so sorry.

16 We're trying -- we're trying to get the
17 money in, the 4.4 million into the estate. Dynamics may
18 change in that scenario, and we might be able to
19 bootstrap our argument with the bondholders, and/or
20 increase our argument, if we have the money in.

21 Q. (BY MR. HILLYER) Okay. So this is going to be
22 certainly a very inarticulate way of looking at it. So
23 as of March 1, you're still working both sides.
24 You're -- you're trying to work a settlement with the
25 bondholders and trying to work a settlement with

1 Prosperity. Is that a fair statement?

2 A. I think that's probably a fair statement.

3 Q. Give me one second.

4 A. Am I being videoed? Can I -- am I being
5 videoed right now? Can I take off my coat, or am I
6 being videoed, or what's going on?

7 Q. You are being videoed, and you are welcome to
8 take off your coat. I believe last -- in the last -- in
9 the last deposition, everyone lost their coats at the
10 break. But you're -- you're welcome to make -- you're
11 welcome to make yourself comfortable, Mr. Seidel.

12 A. I appreciate it.

13 Q. All right. Let's -- can you publish -- it will
14 be 409 and 410.

15 MR. LANGLEY: Do you want one or the
16 other?

17 MR. HILLYER: Are they separate in there?

18 Okay. Publish them both. One is
19 Exhibit 8, and one is Exhibit 9. They should open
20 together.

21 (EXHIBIT NO. 8, e-mail from Davor Rukavina
22 dated March 1, 2023, was marked for
23 identification and attached hereto.)

24 (EXHIBIT NO. 9, e-mail chain, beginning
25 with e-mail from Eric Schaffer dated

1 March 2, 2023, was marked for
2 identification and attached hereto.)

3 THE WITNESS: Are we on 8?

4 Q. (BY MR. HILLYER) We are on 8, and -- and we
5 also put in a 9. It's back-to-back pages, and I don't
6 know why they -- they were separated out in PDF. And
7 apologies for that.

8 A. No worries. I've got 8. There's 9. Okay. Do
9 you want me to hit 8 first?

10 Q. 8 -- 8 first, please.

11 So, Mr. Seidel, this is an e-mail from
12 Mr. Rukavina to Mr. Schaffer, which is --

13 MR. RUKAVINA: Wait. I think we've got to
14 click -- don't click that check button; just click the
15 exhibit.

16 THE WITNESS: Okay.

17 MR. RUKAVINA: And then it goes up into
18 that screen.

19 THE WITNESS: Okay. Great.

20 You got two monkeys here trying to teach
21 each other how to do this.

22 Q. (BY MR. HILLYER) Feel your pain.

23 A. Okay. I've got this, from Davor Rukavina to
24 Eric Schaffer, re Prosperity, Wednesday, March 1st.

25 Q. Right. And I'll represent to you, without

1 having you to go back and look at Exhibit 7, that this
2 e-mail is the same date, approximately 12 minutes after
3 the bank updates Mr. Rukavina that they don't have an
4 answer to your settlement proposal.

5 And this e-mail states that the trustee --
6 and I'm going to paraphrase it, and when he says "we," I
7 know he's speaking on your behalf -- "we are preparing
8 to sue the bank without a meaningful offer this week."
9 And -- and I guess I'll stop right there.

10 Was your understanding that you were going
11 to get a -- a counteroffer, or -- do you have any -- do
12 you have any knowledge of -- of where the settlement --
13 strike that. That's a horrible question.

14 At this point, had you made a decision
15 to -- to potentially sue the bank? And was that -- is
16 that decision the complaintiff decision, or is that a
17 different decision, where it is just the trustee suing
18 the bank?

19 A. We were prepared to sue the bank. The trustee
20 was.

21 Q. Okay. So -- I did a horrible job of asking it.

22 When you say "we," or when Mr. Rukavina
23 says "we," he means "we" as in the trustee and
24 Mr. Rukavina, not "we" and the bondholders?

25 A. Correct.

1 Q. Okay. The second line of the e-mail says
2 "Where are we" -- and this time it's "we" being the
3 bondholders and the trustee -- "on a potential
4 compromise of our issues that also releases a large
5 portion of the funds for immediate payment to you?"
6 Okay?

7 What is your understanding of the
8 "potential compromise of our issues"?

9 A. Trying to get money into the estate, surcharge
10 type.

11 Q. Okay. Is it exclusively the surcharge issue,
12 or are there other issues?

13 A. I don't recall other issues, sitting here
14 today, with regard to the March 1st; but I would -- I
15 would think it was the surcharge issues.

16 Q. Okay. And the second half of the line says
17 "that releases a large portion of the funds for
18 immediate payment to you."

19 So has the decision been made on March 1st
20 that if the surcharge issue can be resolved, that you
21 are committed to get -- that all the -- the large
22 portion of the funds goes to the bondholders?

23 A. I'm committed to seeking Court approval to
24 doing all that, and to ruling that out.

25 But that was -- that's what we're talking

1 about here. I -- obviously representing trustees, like
2 you do, you know, wouldn't do anything without 9019
3 court approval, etc.

4 Q. Right. So again, I'll ask it to you, is --
5 understanding the 9019 approval, and the Court's role in
6 that, am I correct that on March 1st, in this e-mail
7 from Mr. Rukavina, that you as the trustee are committed
8 that if the surcharge issue is resolved, that you would
9 seek court approval to release the funds to them?

10 A. Generally speaking, yes.

11 Q. Okay. So at that -- as of March 1st, have you
12 completed all analysis regarding why the bondholders are
13 entitled to the large portion of the funds?

14 A. I believe so.

15 Q. Okay.

16 A. Or my team has.

17 Q. Okay. And again, you wouldn't --

18 A. Oh.

19 Q. In your experience as a -- as a Chapter 7
20 trustee -- strike that.

21 So if you had concluded that analysis,
22 what was your determination, as of March 1, about the
23 bondholders and their entitlement to a large portion of
24 the funds?

25 A. That they were -- appeared to be entitled to a

1 large portion of the funds.

2 Q. Why?

3 A. Well, it -- various reasons. First, they had
4 asserted a DACA account. Second, the way the money
5 flowed back in could be considered general intangible.
6 Third, they were making noise about collusion. Fourth,
7 I didn't see where -- well, the money was always at
8 Prosperity, so I wasn't sure what, if any, harm to other
9 independent third parties might be done by virtue of
10 ignoring their prepetition claim.

11 And the case law was pretty silent on such
12 a situation, and the fact that the bank had put the
13 money back in the account.

14 Q. Okay. Well, let's stop right there. I
15 understand that is your -- is -- is that your analysis,
16 what -- all of those issues that you said, is -- that's
17 your testimony, sitting here today, on September 13th.

18 What I'm asking you is, if you completed
19 your analysis, is it your testimony that the general
20 intangible collusion money flowed back to an account,
21 everything -- we could read it all back -- you knew all
22 of that and had assessed all of that on March 1?

23 A. I -- I can't testify to at what -- on what date
24 all that occurred, sir.

25 Q. Okay. Well --

1 A. I thought you were asking for the
2 overarching -- the overarching analysis.

3 Q. I'm sorry I wasn't specific. I'll be very
4 specific.

5 A. I apologize if I misunderstood your question.

6 But on March 1st, I can't quantify each
7 and every element at that point in time, no more than I
8 could on March 2nd, no more than I could on any date.

9 Q. Okay. Well, then let me rephrase it.

10 Your previous testimony, I believe, was
11 that you had a DACA, and bank statements, and phone
12 calls with the bondholders and the bank, as of
13 March 1st.

14 A. Okay. Yes.

15 Q. Okay? And then I believe you just testified
16 you had completed your analysis and your determination
17 of the bondholders' entitlement to those funds on
18 March 1st, when you sent this e-mail?

19 A. No. I don't -- if I did, I misspoke. Like I
20 said before, it's always the ongoing process. And I
21 don't know that we had completed on March 1st the
22 complete analysis of each and every element.

23 I mean, it's -- it's an ongoing process
24 until the judge gavel it down.

25 Q. Well, I understand that. And I -- and I -- I

1 appreciate that. Let me rephrase it, then.

2 Why were you willing to make the proposal
3 to Prosperity and the proposal to the bondholders for a
4 surcharge? Why did you make both of those proposals if
5 it was still ongoing at this time, your investigation
6 and determination?

7 A. I tried to get some momentum going in paying
8 down creditors, freeing up money and getting money into
9 the estate, and obviating fees.

10 Q. Go ahead and look at the next exhibit, which is
11 Exhibit 9.

12 A. Okay, Counsel. I have it.

13 Q. Okay. I'm just interested in the last line --
14 that's from Mr. Schaffer to Mr. Rukavina.

15 Just the last line, that says "I would
16 like to know where things stand with regard to the
17 different claims."

18 What does that mean?

19 MR. RUKAVINA: Objection. Speculation.

20 A. I do not know.

21 Q. (BY MR. HILLYER) Okay. What is your
22 understanding of the different claims Mr. Schaffer is
23 talking about?

24 MR. RUKAVINA: Same objection.

25 A. I do not know.

1 Q. (BY MR. HILLYER) And so to the best of your
2 knowledge, it -- so now we are -- I'm trying to -- if
3 you can't tell, Mr. Seidel, I'm trying to keep -- keep
4 this chronologically, so it -- so that it's easier for
5 you and it's easier for me to go through this process.

6 So we're -- we're now on March --
7 basically March 2nd. You've extended an offer to the
8 Prosperity Bank. It has -- a settlement offer. It has
9 not been answered. And you have extended a -- I'm not
10 going to call it a settlement offer; it's a potential
11 compromise of claims to the bank in exchange for the
12 surcharge. And you've gotten no answers as of
13 the 1st of March. Does that sound correct?

14 A. On March 2nd, at 7:32 a.m., it looks like -- I
15 don't know.

16 Q. Okay. Now --

17 A. Proceeded --

18 Q. Okay. And so at this point, what is your --
19 what is your understanding about the claims that you are
20 being -- that are being resolved in the settlement
21 proposals?

22 A. The claims that would be resolved in the
23 settlement proposal would be the release of the funds
24 that Prosperity is holding over to the estate, and
25 that -- any claims the estate may have with regard to

1 those funds, generally speaking, would be my
2 understanding.

3 Q. Okay. And when you say "the funds," at
4 Prosperity, you're talking about the subject funds that
5 are in a bank account at Prosperity?

6 A. Correct.

7 Q. Okay. You're not talking about -- or are you
8 also talking about the Prosperity payments -- you -- you
9 understand what that term means, correct?

10 A. Right.

11 Q. Okay. So when you say "the funds," are you
12 talking about the subject funds, or are you talking
13 about the Prosperity payments, too?

14 A. I believe both.

15 Q. Okay. So let me ask you a -- a question that
16 will probably carry through a part, is why did you
17 decide to pursue the subject funds and the Prosperity
18 payments lumped together?

19 A. Prosperity, one -- one target.

20 Q. Okay.

21 A. One -- one -- one party, one -- one potential
22 target.

23 Q. Okay. And what is your understanding of the
24 difference between the Prosperity payments and the
25 subject funds on March 1st?

1 A. Well, that there was 4-point-whatever million
2 sitting there, and then there was, in addition, some
3 payments that were made to Prosperity, in the
4 neighborhood of 500,000, from my recollection, sitting
5 here months later.

6 Q. Okay. And had -- had you -- again, I'm going
7 to ask you: Had you made the determination that the --
8 the payments of the 500,000 was a claim of the estate
9 that was not subject to the bondholder lien?

10 A. I believe so.

11 Q. Okay. And -- and what was your understanding
12 as of March 1st that you had proposed -- what was the
13 estate receiving for releasing that claim for \$513,000?

14 A. Not much of anything, from what I recall.

15 Q. And when you say that, you -- zero dollars?

16 A. I think that's probably fair.

17 Q. Okay. And as of March 1st, what did -- what
18 was your understanding of any defenses that Prosperity
19 Bank had to the \$513,000 Prosperity payments?

20 A. I -- I can't quantify it as to March 1st, but I
21 can tell you what I understand their defenses to be.

22 Q. Okay. Well --

23 A. I can't -- I can't.

24 Q. We can go back to the previous e-mail, but I
25 would rather just try to -- do you remember, your

1 counsel stated, "I don't see a principled defense, and
2 they" -- the bank -- "had no answer"? Do you remember
3 that from the e-mail?

4 A. I do.

5 Q. Okay. So that e-mail was -- I'll represent to
6 you, that was -- that's Exhibit 6. You don't have to
7 go -- go back to it. That was Thursday, February 23rd.
8 And we're talking about March 1st, a week later.

9 As of March 1st, do you know of any
10 principled defense that -- that the bank had?

11 A. Not that I recall. But not at --

12 Q. Okay.

13 A. -- such a date and time.

14 Q. Understood. Okay.

15 What investigation did -- sorry.

16 At this time, had you done an
17 investigation as to where the funds -- the subject funds
18 were located at Prosperity Bank?

19 A. My recollection is my team had.

20 Q. Okay. And what is your understanding of what
21 investigation your team had done at this point, or what
22 is your recollection -- I'm sorry. I should have let
23 you finish.

24 What is your recollection that your team
25 did an investigation based on?

1 A. I would imagine conversations with my team.

2 Q. Okay.

3 MR. HILLYER: Let's go ahead and
4 introduce -- it will be Bates stamp 419. Adam, you'll
5 have to tell me, are those two separate e-mails? Just
6 do 419.

7 THE WITNESS: You know what may help is
8 that when -- when Adam tells me they're published, then
9 I'll refresh.

10 MR. HILLYER: Yeah, that's what I -- going
11 forward, I'll request it, and when Adam says it's out
12 there and has a number, then -- then you can start
13 looking.

14 MR. LANGLEY: Exhibit 10 is published as
15 one page.

16 (EXHIBIT NO. 10, e-mail from Davor
17 Rukavina dated March 6, 2023, was marked
18 for identification and attached hereto.)

19 THE WITNESS: Now we've got a system.

20 Okay, I have it up, Counsel.

21 Q. (BY MR. HILLYER) All right. I'm sorry, you
22 have -- you have to bear with me. That was Exhibit 10.

23 MR. HILLYER: We -- we can skip that and
24 go straight to Exhibit 11, which should be published at
25 this point. I just realized that it was two e-mails

1 that were separated in your production, instead of a
2 chain.

3 (EXHIBIT NO. 11, e-mail from Eric Schaffer
4 dated March 6, 2023, was marked for
5 identification and attached hereto.)

6 A. No worries. I'm getting the hang of it, and
7 I'm having fun.

8 Okay. This is from Eric Schaffer to
9 Davor.

10 Q. (BY MR. HILLYER) Yes.

11 So the previous exhibit was Mr. Rukavina's
12 e-mail at the bottom. So this is March 6th,
13 Mr. Rukavina asking Mr. Schaffer, does he have any
14 documents showing the \$4.6 million transfer from Goodman
15 to Prosperity? Is there any other document/agreement
16 evidencing the same? Okay?

17 A. Okay.

18 Q. So my -- my obvious question is, is your
19 counsel is -- on March 6th is requesting any documents
20 showing the transfer. So is it a fair assumption at
21 this point that you and your counsel don't have any
22 documents showing the \$4.6 million transfer from Goodman
23 to Prosperity?

24 A. No, sir.

25 Q. "No, sir," as in you're asking for something

1 that you have?

2 A. No, sir. We're asking for the universe of
3 documents, collecting documents. We've got more than
4 Mr. Rukavina working on the matter; we have Brenda Funk,
5 and I think there were other counsel involved.

6 So they -- you're asking me to try to make
7 heads or tails of this, it seems to me like -- trying
8 get the universe of documents.

9 Q. Okay. And Mr. Schaffer responds that he
10 doesn't have anything showing the funds going to the
11 bank. Presumably monthly bank statements show the
12 transfers to Prosperity.

13 A. That's what it says, sir.

14 Q. Okay. So did you have the bank statements?

15 A. I believe we did, but I'm testifying under
16 oath, so I don't -- I'm not --

17 Q. Okay. Would it be --

18 A. I'm not positive.

19 Q. Would it be a reasonable assumption that as the
20 Chapter 7 trustee, that you have the bank statements of
21 Goodman Networks?

22 A. I would think so.

23 Q. Okay. As a more general question, this looks
24 like an investigation into the subject fund's transfer
25 is still going on on March 6th. Is that a fair

1 statement?

2 A. I don't think I'd argue with you about that,
3 that it was an ongoing process.

4 Q. What is your understanding -- this is now a
5 week later, after the settlement proposal and
6 ultimatum -- two weeks after the ultimatum has been made
7 to the bank, one week after the settlement proposal was
8 made, and I'll call it over -- almost a -- close to
9 three weeks after a surcharge proposal has been made to
10 the bondholders.

11 To the best of your recollection, where
12 were you about on -- on March 7th?

13 A. Where was I?

14 Q. Anytime on March 7th.

15 A. I'm sorry, Counsel. Can you ask me a different
16 question? I don't understand "where was I."

17 Q. Okay. What's your understanding of the status
18 of the deal? Any of your settlement proposals right
19 now, when you're still requesting documents on
20 March 6th. Do you have a done deal?

21 A. I don't know that we have a done deal at this
22 point in time.

23 Q. Do you have a deal with either Prosperity or
24 the bondholders at this time?

25 A. I don't recall.

1 Q. Mr. Seidel, did -- did you have your team draft
2 a complaint to sue Prosperity Bank?

3 A. I believe we did.

4 Q. Okay. And in that complaint, was that a
5 complaintiff complaint, that we looked at earlier with
6 the bondholders, or was that a singular plaintiff
7 complaint?

8 A. My recollection was singular.

9 Q. Okay.

10 MR. HILLYER: Let's go ahead and introduce
11 what we've Bates-stamped 424. And the next -- you can
12 publish them together -- the next is the actual draft
13 complaint that goes to ...

14 MR. LANGLEY: Exhibit 12 is published.

15 (EXHIBIT NO. 12, e-mail from Davor
16 Rukavina dated March 7, 2023, was marked
17 for identification and attached hereto.)

18 MR. HILLYER: Okay. We've just published
19 Exhibit 12 and 13. Exhibit 12 is going to be an e-mail;
20 13 is going to be the attachment.

21 (EXHIBIT NO. 13, Trustee's Original
22 Complaint, was marked for identification
23 and attached hereto.)

24 A. Which one you want me to look at first?

25 Q. (BY MR. HILLYER) 12.

1 A. I've got it.

2 Q. Okay. This is an e-mail from Mr. Rukavina to
3 Prosperity Bank, and copying bondholder counsel, with a
4 copy of a -- you can see attachments, "Complaint
5 Prosperity.pdf."

6 This is dated Tuesday, March 7th. It
7 says: "Victoria: We have not heard anything... We
8 will be filing the attached tonight. Please let us know
9 right away if Prosperity is prepared to accept the
10 trustee's settlement offer or if it believes it has any
11 principled defense to the trustee's claims. We have not
12 heard of one and are not aware of one." Please know
13 that if the complaint is attached, settlement offer is
14 off the table.

15 Fair and accurate reading of that?

16 A. Yes, sir.

17 Q. Okay. So let's go ahead and -- and look at
18 your -- well, before we get off this is -- again, this
19 is now the third e-mail I believe we've looked at, is --
20 your counsel is repeating that Prosperity Bank has no
21 principled defense to the trustee's claim; has requested
22 it, not aware of one; and again stated that you do not
23 know of any principled defense.

24 Is there anything that has changed, that
25 Prosperity Bank has any defense that you have an

1 understanding of at this time?

2 A. Not at this time, apparently.

3 Q. Okay. Let's go to the original complaint.

4 I'm sorry, that'll be -- that'll be 13.

5 A. Okay. Give me a second, please.

6 Yeah, is it published?

7 Q. It should be.

8 A. Okay. I've got it. And I'll tell you when
9 it's up, and then we'll all know where we all are.

10 I've got it up.

11 Q. Okay.

12 A. Exhibit is -- is loaded. "Trustee's Original
13 Complaint."

14 Q. Okay. Have you read that draft complaint
15 before?

16 A. I have before. It's been some time.

17 Q. Okay. And I say "draft"; this complaint was
18 not filed, was it?

19 A. Not to my recollection.

20 Q. Okay. I'm going to try to not have you go
21 through this whole -- whole complaint. This is you
22 bringing an AP case on behalf of the estate against
23 Prosperity Bank, Genesis, and Genesis Networks Global
24 Services. Is that correct?

25 A. Yes, sir.

1 Q. Okay. And we can skip through all the -- the
2 factual recitations that mirror the substance,
3 essentially, of your 9019 motions. Let's just go -- go
4 to 429, which will be page 5 of the complaint.

5 A. And when I go to 429, does it come across your
6 screen, or is it just my screen?

7 Q. It will just be -- once it's published, you
8 control your own exhibit.

9 A. I'm on 429.

10 Q. Okay. Just quickly, paragraphs 30 and 32. You
11 state that debtor received no consideration, no
12 reasonably equivalent -- "no consideration and no
13 reasonably equivalent consideration for the assignment,"
14 and that is the assignment of deposit account.

15 And you also state, "The assignment and
16 the resolution reference that the debtor received
17 consideration for the assignment. That reference is
18 false."

19 Is it your position -- is it your position
20 at this time that the assignment of the deposit account,
21 and the granting of that by Goodman Networks, was a
22 clear fraudulent transfer?

23 A. I believe so.

24 Q. Okay. Give me one second.

25 A. No worries.

1 Q. All right. I was just making sure I -- so
2 going to page 7 of the complaint. Again --

3 A. I have that. What paragraph?

4 Q. 39, 40, 41.

5 A. Okay. That's helpful. 39, 40, 41.

6 Okay. I have them up; I haven't read
7 them.

8 Q. Okay. And I will reference to you the
9 payments -- the capitalized term "Payments," in 39, is
10 the \$513,000 itemized on paragraph 36. If you can see
11 that.

12 A. I'm with you.

13 Q. Okay.

14 A. I'm with you.

15 Q. And the complaint makes the statement, no --
16 the debtor received no value, no reasonably equivalent
17 value. Debtor was insolvent, or in the transfer -- or
18 obligation effectuated rendered the debtor insolvent.
19 "The debtor was insolvent at the time that it made these
20 payments."

21 Is that still your position today?

22 A. Sure.

23 Q. Okay. And your accounts -- I'm not going to
24 make you go -- go through them all -- you asked for
25 declaratory judgment to void the assignment. You asked

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1 for a 548(a)(1)(B) avoidance of the assignment. And you
2 asked for an -- also a 548(a)(1)(B) avoidance of both --
3 it says avoid -- avoids each of the payments.

4 And so the question is, at -- at this
5 point, I'm looking at this -- are -- are you just going
6 exclusively after the \$513,000 at this point? Is that
7 what you're threatening Prosperity?

8 MR. RUKAVINA: Why don't you take your
9 time and read all of those counts before you answer that
10 question.

11 Q. (BY MR. HILLYER) Please.

12 A. It's going to take me a minute.

13 Okay. Declaratory judgment.

14 Q. For the sake of expediting this, Mr. Seidel,
15 I -- I wasn't -- I did not mean for you to have to read
16 it; I was not going to try to trick you, and that I was
17 going to go straight to the prayer for relief.

18 MR. RUKAVINA: Can we agree that the
19 document speaks -- can we agree that the document speaks
20 for itself?

21 MR. HILLYER: We -- we can -- we can
22 absolutely agree the document speaks for itself.

23 Q. (BY MR. HILLYER) So, Mr. Seidel, what I'm
24 asking for is that basically your complaint that you
25 drafted is seeking a 548 judgment against Prosperity

1 Bank for the payments, and then you were also asking for
2 a turnover and/or a money judgment against the
3 defendants for the account and escrow funds, which are
4 detailed separately.

5 A. I think that's true.

6 Q. Okay. So what I'm going to ask you now is
7 that -- is just a general question, is -- you're
8 pursuing -- this draft complaint appears to be a 548
9 with a lien avoidance and a turnover of property of the
10 estate. The bondholders aren't involved in this at all.
11 How does this complaint affect your proposed global
12 settlement at that time?

13 A. I'm not sure I understand how it would affect
14 that aspect of it.

15 Q. Okay. No, I -- I'm not -- I probably shouldn't
16 have gotten that technical.

17 What I'm asking is, is this complaint
18 essentially a joint venture on behalf of the
19 bondholders? Or are you stating that "I'm filing this
20 complaint on behalf of the estate if we cannot get a
21 deal done"? Like the global -- the global settlement is
22 off, and you're going with this complaint. That's what
23 I'm asking you.

24 A. I think it was closer to the latter.

25 Q. Okay.

1 A. It was not a joint.

2 Q. Give me one second.

3 CERTIFIED STENOGRAPHER: I'm sorry, if
4 you're talking, I don't know if you're on the record.

5 THE WITNESS: Sorry. I'm just mumbling
6 over here. We're making a joke.

7 Q. (BY MR. HILLYER) All right. And Mr. Seidel,
8 I'm going to go back to using the motion terminology
9 versus the complaint terminology. When I say
10 "prosperity payments," I mean the \$513,000; and when I
11 say "subject funds," I mean the 4.4 million, going
12 forward.

13 A. Okay. I'll try to stick with that -- I'll try
14 to stick with that. Yes, sir.

15 Q. So is -- is it your understanding, have -- have
16 the bondholders ever asserted a lien as to the \$513,000
17 Prosperity payments?

18 A. Not that I recall.

19 Q. Okay. Do you -- do you recall the bondholders
20 giving you confirmation that they weren't asserting
21 claims with regard to the \$513,000?

22 A. I can't recall, sitting here. I'm sorry. I
23 don't recall.

24 Q. Okay. Is it your understanding that the
25 bondholders have not asserted any claim to the 5 -- any

1 secured claim to the \$513,000 Prosperity payments?

2 A. I don't recall it. They've been generally
3 aggressive in asserting claims to everything.

4 Q. And I'm -- I'm certainly not -- not trying to
5 be argumentative. I'm not asking for a recollection;
6 I'm asking, what is your current understanding today?

7 Do you understand -- your understanding
8 today -- are they asserting a claim -- are the
9 bondholders asserting a claim to the \$513,000 Prosperity
10 payments?

11 A. I'm not sure. I know this: If some money fell
12 in my lap today from some other thing that nobody knows
13 about, I guarantee the bondholders would be in here
14 saying it's their money.

15 Q. All right. So as you sit here today, you don't
16 know if the bondholders are asserting a claim to the
17 \$513,000 Prosperity payments that are identified in your
18 motion?

19 A. I'm uncertain.

20 Q. Well, if your motion says that that money is to
21 go to the estate, don't you have to know if someone is
22 asserting a claim against it?

23 A. No. I mean, people can either have claims, not
24 have claims, waive claims. It's part of the -- part of
25 the entirety of the deal.

1 Q. But you do know that the bondholders are
2 asserting a secured claim as to the subject funds?

3 A. Yes -- yes, sir, I believe they do.

4 Q. You believe they do, or you believe they are
5 asserting a secured claim?

6 A. Are asserting a secured claim.

7 Q. Okay. But you don't know if they are asserting
8 a secured claim to the \$513,000 Prosperity payments that
9 you're settling?

10 A. Uncertain.

11 Q. So, Mr. Seidel, are we sitting here today
12 saying that every single consideration in your current
13 settlement may be subject to the bondholders' claim,
14 secured -- a secured claim of the bondholders?

15 A. No. I think the settlement speaks to that, and
16 that they're not going to participate to the tune of
17 \$350,000.

18 Q. Okay. Well, again, we'll -- we'll get to that
19 figure later on. But that 350 is a \$150,000 surcharge
20 and a \$200,000 settlement payment for the -- for the
21 avoidance action for the Prosperity payments, correct?

22 A. Correct.

23 Q. Okay. So let's not lump them together for
24 the 350.

25 Are the bondholders asserting a secured

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1 claim to the \$200,000 that you're proposing to receive
2 for settling the Prosperity -- the \$513,000 Prosperity
3 payments?

4 A. Not as couched in the settlement agreement, and
5 if approved, not in the deal we have.

6 Q. Okay.

7 A. I don't know who's getting alerts, but that
8 comes across really loudly here.

9 MR. RUKAVINA: It might be the projector.

10 THE WITNESS: Oh, okay. It may be no
11 one's fault on here.

12 A. Go ahead.

13 Q. (BY MR. HILLYER) Okay. Have they ever asserted
14 a claim to any of the Prosperity payments, meaning the
15 \$513,000, to the best of your knowledge?

16 MR. RUKAVINA: Objection. Asked and
17 answered multiple times now. Unnecessarily repetitive.

18 Q. (BY MR. HILLYER) You can answer.

19 A. I think they claim every penny of everything,
20 from everything I've seen, from the bondholders. In my
21 discussions with them, it's proved that it's not our
22 collateral. Generally speaking.

23 MR. HILLYER: All right. We can
24 introduce -- this will be Bates-stamped 450.

25 MR. LANGLEY: The exhibit's been

1 introduced.

2 (EXHIBIT NO. 14, e-mail chain, beginning
3 with e-mail from Eric Schaffer dated
4 March 7, 2023, was marked for
5 identification and attached hereto.)

6 Q. (BY MR. HILLYER) Exhibit 14 has been
7 introduced. It should be a three-page e-mail,
8 Bates-stamped 450 to 452.

9 A. Okay.

10 Q. And look on the second page.

11 A. Okay.

12 Q. And that's Prosperity Bank's counsel asking
13 your counsel that they have requested deposition
14 transcripts.

15 A. I see that.

16 Q. What's your understanding of why they're
17 requesting deposition transcripts?

18 MR. RUKAVINA: Objection. Speculation.

19 A. I do not know.

20 Q. (BY MR. HILLYER) Go to the first page, please,
21 sir.

22 A. Yes, sir. Will do.

23 Q. Okay. Just look at the top of the page,
24 please. That's Mr. Schaffer to Mr. Rukavina.

25 A. Correct. I was not copied.

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1 Q. Okay. It says "No surprises in the complaint."
2 I'm assuming he's referencing to the draft
3 complaint that we just went through.

4 "If litigation proceeds, I would expect to
5 intervene to assert additional claims against the bank.
6 Among other things, the deposit account control
7 agreement contains an express subordination by the bank.
8 I don't think UMB would assert any claims with regard to
9 the 513. I would hope to resolve cash collateral issues
10 on an agreed basis."

11 So does that refresh your recollection
12 that -- is the bank asserting any claims as to the 513?

13 A. I would -- I wouldn't -- I wouldn't rely on
14 that as saying the bank asserts no claims. First of
15 all, I wasn't copied on that, so it doesn't -- you know,
16 I'm reading this -- I don't know if it's for the first
17 time, but I don't know that I've seen this before, A.

18 And B, the sentence "I don't think UMB
19 would assert any claims with regard to the 513," I don't
20 think that's the beginning, end, and -- story of that
21 deal.

22 Q. I -- I believe that's a -- that's a fair
23 statement, Mr. Seidel. So I'll rephrase it.

24 Have you ever been told that they are
25 asserting claims to the \$513,000, Prosperity payments?

1 A. I don't recall.

2 Q. You don't recall whether or not the secured
3 creditor is asserting -- you've been told whether
4 they're asserting claims? That's a pretty material
5 point.

6 MR. RUKAVINA: Objection. Is there a
7 question there, or is that a statement?

8 MR. HILLYER: Well, I -- okay.

9 Q. (BY MR. HILLYER) If they are asserting a claim
10 against the Prosperity payment proceeds, doesn't that --
11 does that not materially change your motion, Motions 1,
12 2, and 3, as they're represented?

13 A. No, because the deal is the deal. We're going
14 to end up -- the estate's going to end up with the 350,
15 regardless of any claims they would have.

16 In other words, to me, it cements this
17 sentence, of "I don't think UMB would assert any
18 claims."

19 Pursuant to the deal, they won't be
20 asserting any claims with regard to the moneys we
21 receive out of that deal.

22 Q. Again, going back to your draft complaint,
23 what's the likelihood of success of that complaint?

24 A. I -- I have never answered a question like that
25 in my life. I've had clients ask me things like that.

1 What's our likelihood of success? What --

2 MR. RUKAVINA: I'm going to have to
3 object, to the extent that it calls for attorney-client
4 privilege.

5 Q. (BY MR. HILLYER) Do you understand likelihood
6 of success is a factor a court uses in an analysis of
7 settlements?

8 A. I do.

9 Q. And you -- and you've been a Chapter 7 trustee
10 for 30 years, and you've never made statements about the
11 likelihood of success?

12 A. I'm not going to give you a percentage. I
13 thought you were asking for like percentages, etc.

14 And so can you re-ask me your question?

15 Q. Sure.

16 What is the likelihood of success of that
17 draft complaint to recover the \$513,000 Prosperity
18 payments -- either using percentages or words: High,
19 medium, low? Scale of 1 to 10?

20 I'm not -- certainly not trying to -- not
21 trying to badger you, but you -- you have to be able to
22 give me something, Mr. Seidel.

23 A. I -- I think it's not bad. I think it's --
24 it's in the range of "okay" to "decent." But there has
25 been defenses raised, etc. And there's also costs,

1 delay, and expense of litigation.

2 I would tell you that it's not the worst
3 complaint I've ever seen, for sure; but I also -- in my
4 experience, there's no laydowns either. Especially with
5 a bank.

6 Q. Okay. We already went through the e-mails
7 about the "no principled defenses." So again, I'll ask
8 you, when you said "defenses," do you know of any
9 defenses, as you sit here today?

10 A. Yes.

11 Q. What are the defenses?

12 A. Well, there's a line of cases with regard to
13 the fact that the funds were subject to a DACA, no
14 equity for the estate, and therefore any recovery would
15 be --

16 Q. I'm sorry, Mr. Seidel, I don't mean to cut you
17 off. I wasn't talking about the subject funds. I was
18 talking about the Prosperity payments, \$513,000.

19 A. I think it's the same. I don't know the
20 difference.

21 Q. You couldn't make a distinction --

22 MR. RUKAVINA: Can the gentleman answer
23 your question?

24 MR. HILLYER: Sure.

25 A. I'm sorry, I was in -- yeah, there were dollars

1 at Prosperity, in the -- in the debtor's account, and
2 some -- some of those funds went to Prosperity as well.

3 Q. (BY MR. HILLYER) Okay. What defenses does
4 Prosperity Bank have to a fraudulent transfer claim as
5 to the \$513,000 Prosperity payments?

6 A. I -- I would think they would assert the
7 claims, the -- the Ninth Circuit law with regard to the
8 fact that we're talking about encumbered funds, and the
9 Judge Larson well-reasoned opinion that hits on that
10 topic as well.

11 I'm not sure what other defenses. You
12 know, I remember your -- your questions of the bank
13 representative, etc. But there's some case law out
14 there that's not helpful in that regard.

15 Q. Okay. Are these your defenses that you've come
16 up with, or are these defenses Prosperity Bank has
17 raised?

18 A. They're defenses that exist.

19 Q. All right. So when your counsel sent the
20 e-mail "they have no principled defenses," you're
21 disagreeing with your counsel's e-mail?

22 A. Like I said, it's been a constant changing
23 dynamic, as people come up with defenses, as people
24 research deeper, as people dig deeper, people look into
25 things harder, etc.

1 Q. Okay. Do you think -- based on the allegations
2 in your draft complaint, did Prosperity give the debtor
3 any value?

4 A. Not that I recall.

5 Q. Okay. And are you telling me the defenses that
6 you just enumerated, and the case law that -- I guess we
7 can get that from your counsel later; you're saying
8 that -- that those defenses are applicable in this case
9 with the bank statement that they didn't give new value,
10 and your position that they didn't give new value?

11 A. I would think they'd be asserted.

12 Q. Okay. Give me one second.

13 A. Sure.

14 It's so hard to use this thing. And then
15 it goes all over the place.

16 Q. All right. So just -- I apologize to ask
17 again, because I'm trying to write these down. So other
18 than the -- are you -- I believe we just took care of
19 the value aspect of a defense, okay? Can you just
20 briefly just tell me, so that -- what are the other
21 available defenses to Prosperity -- of Prosperity Bank
22 to the defenses to a fraudulent transfer claim for the
23 \$513,000?

24 MR. RUKAVINA: Objection. Asked and
25 answered.

1 Q. (BY MR. HILLYER) Well, you said a Ninth Circuit
2 decision; what decision is that?

3 A. I'm sorry, Counsel, I don't have that in my
4 memory banks. I'm glad to supply it to you.

5 Q. Okay. You said Judge Larson's reasoned
6 opinion. What -- what opinion is that?

7 A. Essence -- essential essence, something like
8 that. I'll get that to you as well.

9 Q. Okay. Is there any other -- is there any
10 noncase law you're citing, is there any other statutory
11 defense -- 550, anything that you're -- that you know
12 of, as you sit here today?

13 A. Not that I'm sitting here today wanting to --
14 to feed to a potential target in the instance that this
15 doesn't get approved and we'd end up going forward with
16 litigation.

17 But no, I'm not aware of anything else.

18 Q. Okay. So do you recall when you reached a
19 global settlement with Prosperity Bank and the
20 bondholders?

21 A. No. I stand to be refreshed on that, but I
22 don't recall when exactly, days, etc.

23 Q. Okay.

24 MR. HILLYER: Let's go ahead and
25 introduce 461.

1 MR. LANGLEY: Exhibit 15's published.

2 MR. HILLYER: It should be in there now.

3 THE WITNESS: Refreshing.

4 It is in there now. We are bringing it
5 up, and I see an e-mail.

6 (EXHIBIT NO. 15, e-mail from Victoria
7 Argeroplos dated March 8, 2023, was marked
8 for identification and attached hereto.)

9 THE WITNESS: By Brenda and Davor.

10 Q. (BY MR. HILLYER) Yes. So this is Prosperity
11 Bank's counsel to your counsel, and copying bondholder
12 counsel -- you are not copied on this -- that she has
13 "received the green light from Prosperity to proceed
14 with the proposed settlement."

15 Do you see that?

16 A. Yes.

17 Q. Okay. And I'm going to ask you the same
18 question I did about the March 1 e-mail: What are the
19 terms of this proposed settlement that she's accepting?

20 A. I think it's still a work in progress. But let
21 me read the e-mail. Do you mind?

22 Q. No, I don't at all. Go ahead.

23 A. Thank you, sir.

24 Yeah. Okay. That's it. That's all
25 that's in it. Yeah, I've read it.

1 Q. Okay. And I'll represent to you, this is a
2 stand-alone e-mail in your production.

3 A. Okay.

4 Q. So I'll ask you again: What are the terms --
5 strike that.

6 Prosperity just -- I'm going to say
7 "accepted," where it says "green-lighted," "proceed with
8 the proposed settlement." What are the terms of the
9 proposed settlement that have essentially been
10 green-lighted, subject to global releases, the trustee,
11 the debtor, bondholders, and anyone else that has
12 interest in the funds?

13 A. I think it's something along the lines -- I'm
14 trying to recall. But, you know, at this point in time,
15 like I said, it's always been a moving target. But I
16 don't think there was a deal done at this point in time
17 with bondholders. But with regard to Prosperity, I
18 think it was something along the lines of turning over
19 of money to the estate.

20 Q. And I'll represent to you, Mr. Seidel, we're
21 now on Bates stamp 461, if you can see on the bottom of
22 that. I certainly don't want you to take the time to go
23 through your own production, but there is not a
24 settlement e-mail, settlement terms e-mail, or a
25 confidential settlement, up to this point.

1 So you have to bear with me when I ask
2 you, a settlement has been proposed, and the settlement
3 has apparently been green-lighted, and there is not a
4 single settlement e-mail in your production.

5 So I ask you this: Do you consider that
6 normal, in your practice, settling a -- claims of
7 \$4.9 million, and we can't even determine what the
8 settlement was proposed and was accepted?

9 A. Constant back-and-forth, Counsel, constant --
10 you know, if we're dealing with lawyers that we know and
11 trust, it -- you know, we get to the general terms of
12 what the deal would look like. We can say, "We've got a
13 deal," and then always the devil's in the details as you
14 try to work that deal and get to the exact, you know,
15 releases up -- the language of the deal.

16 Because it's, in my view, wasteful for
17 counsel to spend a bunch of time scrivenering an
18 agreement that the two sides haven't said, "Okay, that
19 sounds like a deal; let's do it."

20 Q. So this is --

21 A. In my recollection --

22 MR. RUKAVINA: Were you done answering?

23 THE WITNESS: No.

24 A. In my experience, we keep calling: What about
25 this? What about that? What about this? Okay, that'll

1 work. Okay, that may work. Okay, well, let's see how
2 that looks. Okay, let's do a deal.

3 At that point in time, then we get busy
4 with the scriveners, so we're not wasting time going
5 back and forth.

6 Q. (BY MR. HILLYER) So -- so again, this is a
7 settlement between the estate and Prosperity at this
8 point. Is that a correct statement?

9 A. True. True.

10 Q. Okay. And so I'm just going to ask you your
11 understanding -- well, let me ask you this, is -- do you
12 have a settlement -- does the estate have a settlement
13 at this point with the bondholders?

14 A. Not -- not that I recall.

15 Q. Okay. So --

16 A. Not at this point in time on this particular
17 day.

18 Q. Okay. So this is between the estate and
19 Prosperity. And so I'm going to ask you a specific as
20 to your understanding at this time: What is Prosperity
21 getting, and what is the estate getting, related to
22 Prosperity's acceptance of your proposed settlement?

23 A. My general recollection at this point in time,
24 subject to being revised by someone showing me something
25 different, is that the estate is going to take in the

1 \$4.4 million and change, the subject funds, and
2 Prosperity would get a release. Something to that
3 effect.

4 Q. Okay. So there's no surcharge part of that
5 deal, and there's no Prosperity payments part of that
6 deal?

7 A. I believe that's correct, sir.

8 Q. Okay. So -- but what is your understanding
9 about the claims that are being settled? The claim to
10 the subject funds and the Prosperity payments were being
11 settled by the turnover of just the subject funds?

12 A. I believe that's correct.

13 Q. Okay. Okay. So without getting to the
14 specifics, so when I talked about the claims for the --
15 for the Prosperity payments and the claims for the --
16 the subject funds, are you making a distinction; when I
17 say "claims," are you settling a 548 claim? Are you
18 settling a 542 turnover claim? What was your
19 understanding of the actual claims being settled with
20 Prosperity?

21 A. All of the above.

22 Q. So when you say "all of the above," would it be
23 a fair statement that it's everything that you put in
24 the draft complaint?

25 A. I believe so, sir.

1 Q. Okay.

2 MR. RUKAVINA: It's almost 1:00, Cam.
3 I don't want to cut you off. Let's find a convenient
4 point, please.

5 MR. HILLYER: Okay. And y'all's hearing
6 is at 1:30, and you all need time to jump on it?

7 THE WITNESS: Yeah, and -- and grab a
8 sandwich.

9 MR. RUKAVINA: Sure. And talk to Thomas.
10 I think, Cam, we can -- we can target
11 for 2:00, and -- and you just keep me informed about how
12 much longer Larson has, if that's okay.

13 MR. HILLYER: Okay. Well --

14 MR. RUKAVINA: Let's go off the record.

15 MR. HILLYER: Yeah, let's go off the
16 record. I was going to say, if you're targeting for
17 2:00, then it makes sense to go ahead and break now and
18 just do a one-hour from 1:00 to 2:00 now.

19 MR. RUKAVINA: Yeah. That's -- that's
20 what -- that's what we were thinking. Yeah, that's what
21 we were thinking. That way we can grab a quick sandwich
22 before he has to appear in court. And then, again, I'm
23 thinking this will be done by 2:00; but -- but either
24 way, we'll keep you informed.

25 THE WITNESS: If we're running late, I'll

1 e-mail you, Cam, or Thomas will, or --

2 MR. RUKAVINA: Yeah, Thomas will e-mail
3 me, and I'll e-mail this group.

4 UNIDENTIFIED SPEAKER: I'll be a little
5 surprised --

6 VIDEOGRAPHER: Let me -- let me go off the
7 record.

8 We're going off the record. The time is
9 12:58 p.m.

10 (Recess)

11 VIDEOGRAPHER: We're going back on the
12 record. The time is approximately 2:34 p.m.

13 Q. (BY MR. HILLYER) Welcome back, Mr. Seidel.

14 A. I apologize for the delay.

15 Q. Not -- not a problem.

16 So I'm not going to catch us up to where
17 we are. But with -- the last exhibits that I introduced
18 were e-mails, and Prosperity Bank has green-lighted a
19 settlement with the trustee that you proposed. Do you
20 remember that?

21 A. I do.

22 Q. Okay. And I previously asked you, did -- at
23 that time that Prosperity green-lighted it, did you have
24 a settlement in place with the bondholders? And I
25 believe you testified you did not think so; everything

1 was ongoing. Is that correct?

2 A. I believe that's correct.

3 THE WITNESS: Can we get back to the
4 exhibits?

5 MR. RUKAVINA: There you go.

6 A. I'm with you, Counsel.

7 Q. (BY MR. HILLYER) Okay. So jumping right in --
8 so you agreed to a \$100,000 surcharge; is that correct?

9 A. I believe that's true.

10 Q. Okay. And you had previously offered a
11 \$1 million surcharge with a waiver and a \$500,000
12 surcharge without a waiver for future requests for
13 surcharge. Is that correct?

14 A. Sounds -- that sounds right.

15 Q. Okay. Mr. Seidel, how did you end up at
16 \$100,000, based off of your first two settlement offers
17 to the bondholders?

18 A. The -- I guess the level of defenses raised,
19 and the articulation that defenses -- on and on, that
20 the power -- the wherewithal of that group, etc.
21 That's -- that's how we -- we got down to that.

22 Q. Okay. I'm not sure I understand that -- that
23 answer. You're saying defenses of the bondholders?

24 A. Well, I mean, the -- the entirety of the
25 transaction. In other words, the defenses raised, the

1 documents provided, on and on. The cost expense, delay
2 of litigation.

3 Look, you come out of the blocks asking
4 for the world -- at least I do -- and then you start
5 seeing the lay of the land.

6 Q. Okay. So -- so at some point you agreed to
7 \$100,000 for a surcharge to recover the subject funds
8 and hand them -- hand all the subject funds, less
9 \$100,000, to the bondholders; is that correct?

10 A. I think that's correct.

11 Q. Okay. And your negotiated surcharge was based
12 upon defenses that were articulated -- and I believe you
13 just said in documents. What documents did you assess
14 to negotiate that \$100,000 surcharge?

15 A. So I said "and documents." And the documents
16 involved would have been any Prosperity documents we had
17 at the time.

18 Q. Okay. And do you know what Prosperity
19 documents you had at the time you agreed to the
20 surcharge, the \$100,000 surcharge?

21 A. Like I said, I believe we had bank account
22 statement information and/or DACA information, etc.

23 Q. Okay. So the -- the DACA -- and when you
24 say -- when you say the DACA, that is the DACA for
25 Account 3992, correct?

1 A. Correct.

2 Q. Okay. And when you say "bank statements,"
3 that's the bank statements for 3992, correct?

4 A. Correct.

5 Q. Okay. And do you have any -- when you agreed
6 to this surcharge, did you have any documents about
7 where the subject funds were being held at that time?

8 A. I can't testify under oath that we had those,
9 but I believe we did.

10 Q. You believe you did. And what -- what leads
11 you to believe that?

12 A. I'm uncertain whether or not we do.

13 Q. All right. So sitting here today, you don't
14 know if you had any information regarding -- and I'm
15 going to go ahead and call it by its correct name -- the
16 Account 0188. Are you familiar with that account?

17 A. Yes, sir.

18 Q. Okay. And so -- and so you agreed to a
19 \$100,000 surcharge, but the money had to come in to the
20 estate, and then the surcharge taken out, and then the
21 funds remitted to the bondholders; is that correct?

22 A. That was going to be the omnibus deal being
23 contemplated, if we could get the bondholders on board,
24 etc.

25 Q. Get the bondholders on board for what?

1 A. For this tripartite agreement we were trying to
2 reach.

3 Q. Okay. Is there any reason why Prosperity would
4 not remit the subject funds in the settlement directly
5 to the bondholders, and then they would remit to the
6 estate your \$100,000 surcharge?

7 A. I -- I think that the bank wanted agreement
8 from the -- I think the bank put the funds in an account
9 for the benefit -- or to be held pending court order or
10 agreement of the bondholders and the trustee. So I
11 don't know about how that would have rolled if they
12 tried to do it that way.

13 Q. Okay. Well --

14 MR. HILLYER: Adam, can you introduce
15 Bates number 558.

16 Adam will tell us shortly what exhibit
17 number that is.

18 MR. LANGLEY: Exhibit 16 is introduced.

19 THE WITNESS: Thank you. I'm looking for
20 it now.

21 (EXHIBIT NO. 16, e-mail chain, beginning
22 with e-mail from Davor Rukavina dated
23 March 15, 2023, was marked for
24 identification and attached hereto.)

25 THE WITNESS: I have it. I'm tapping on

1 it.

2 Okay.

3 Q. (BY MR. HILLYER) Look at the first page, at the
4 bottom. And that is from your counsel, that says
5 "Gentlemen, the trustee will agree to the \$100,000. He
6 will not agree to a direct transfer; the order will
7 require him to immediately transfer the funds to Eric
8 less the 100. Do we have a deal?"

9 Do you see that?

10 A. Yes.

11 Q. Okay. So in fact it's you that were asking --
12 or insisting that the funds come into the estate and
13 then go out of the estate, not conversely, what you just
14 said?

15 A. I didn't mean to imply that conversely
16 anything.

17 But yes, that's -- that's what that says.

18 Q. Okay. Why did you want the funds to come in to
19 the estate and then be disbursed out of the estate?

20 A. Because it's property of the estate.

21 CERTIFIED STENOGRAPHER: I'm sorry?

22 A. I'm sorry. Because it's property of the
23 estate.

24 Q. (BY MR. HILLYER) Okay. And look at the -- the
25 middle line of that e-mail from Mr. Silverstein: "I

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1 assume that is to make sure the payment is in the
2 trustee's commission denominator, which we appreciate.
3 So long as we are not at any risk, I think we can get
4 comfortable with that."

5 Do you see that?

6 A. I see that.

7 Q. Okay. Do you understand what that e-mail
8 means, Mr. Seidel?

9 A. I'm not positive.

10 Q. Okay. Well, look at your counsel's response on
11 the top: "I will not ratify that assumption but I am
12 thinking we have an all-around deal then that puts to
13 rest Prosperity?"

14 A. Okay.

15 Q. Okay? So what I'm going to ask you now is, are
16 you seeking a commission for disbursing the 4.4
17 recovered less the \$100,000 to the bondholders?

18 A. Not at this time, no.

19 Q. Do you -- okay, well, that's -- not at this
20 time. Are you waiving any commission to that
21 \$4.3 million?

22 A. No, sir. I'm not waiving. I'm not asserting
23 that it's coming in, that it's all a trustee commission,
24 etc. It's coming in the estate, and we'll see how
25 things shake out at the end of the day.

1 Q. Okay. Do you know approximately how much your
2 commission would be on disbursing \$4.3 million to the
3 bondholders?

4 A. I would guess in that range.

5 Q. In what range?

6 A. 150,000 or so. I'm not positive. I don't have
7 a calculator in front of me.

8 Q. Okay. So if I did the calculations and it was
9 \$162,000 off of using the scaled commissions, you
10 wouldn't have any reason to dispute that?

11 A. If you're looking at the scale commission the
12 way it's properly done, I'm not going to argue with you.
13 It might be in that range. I don't have it in front of
14 me. I don't have the computer program up.

15 Q. Okay. So in your -- in this current
16 settlement, you are only receiving \$100,000, correct?

17 A. The --

18 Q. When you say --

19 A. -- total.

20 Q. I'm sorry?

21 A. In -- in the -- in the settlement that's
22 proposed to the Court, we're receiving 350, 100 of which
23 is this.

24 Q. I'm not talking about what's currently. I'm
25 talking about I am in -- I'm in March of 2023. I'm

1 talking about Settlement Motion 1.

2 A. Okay.

3 Q. That's been filed.

4 In that motion, you were receiving
5 \$100,000 of a surcharge, and that is all that you were
6 receiving, or the estate is receiving. Is that correct?

7 A. That's my recollection, yes, sir.

8 Q. Okay. And what amount of that \$100,000 -- it
9 obviously is a surcharge for fees and expenses. At this
10 point, how much money have you -- has your -- strike
11 that.

12 At -- at this point, after 50 days of
13 doing this, how much fees has your counsel run up doing
14 this proposed settlement with Prosperity Bank and the
15 bondholders?

16 A. I do not know.

17 Q. Do you have any idea?

18 A. It would be a guess.

19 Q. What is your guess?

20 A. My guess would be in the \$50,000 range or so.

21 Q. Okay. Okay. And so of the \$100,000 surcharge,
22 would it be a fair assumption that \$50,000 has already
23 been spent pursuing this motion that hasn't been filed
24 yet?

25 A. I would think so.

1 Q. Okay. That leaves \$50,000, correct?

2 A. Yes, sir.

3 Q. Okay. If you seek a commission of \$160,000,
4 how does that work, Mr. Seidel? Where's that money
5 coming from, if you only get 100, 50 of it's already
6 spent; you only have 50, but you want 160 commission?

7 A. You say I want 160 commission. I haven't seen
8 that. I haven't asserted that. I haven't claimed that.
9 And that hasn't been approved by the Court.

10 Q. Okay. Well, I'm -- I'm not asking you whether
11 it's been approved. I asked you, do you think
12 that that, based on the scale, is a reasonable figure?

13 We -- we can go through the numbers, if
14 you want to, of the -- of the 25 percent, 10 percent,
15 5 percent, 3 percent, over a million. I'm telling you
16 I've done it, and it's roughly \$160,000. And you've
17 done this for 30 years.

18 And then what I've asked you is, "Are you
19 seeking a commission?"

20 And you said, "Not at this time."

21 And I said, "Are you waiving it?"

22 And you said, "I'm not waiving it."

23 What I -- so again, I'm going to ask you
24 the question: If you seek a commission, then this is a
25 negative transaction for the estate. Do you understand

1 that?

2 A. If I sought a full commission on this
3 transaction, claiming the 4.4 million and claiming a
4 full commission of 162, that would be a negative
5 transaction. And I've never done a negative
6 transaction.

7 Q. Okay. Okay.

8 A. Ever.

9 Q. Okay. So I'm going to ask you again: At this
10 point, as you sit here, you're -- you're not prepared to
11 say that you're not seeking a commission on the 4.4?

12 MR. RUKAVINA: Objection. Asked and
13 answered. Badgering.

14 A. Question again?

15 Q. (BY MR. HILLYER) Okay. Is it your testimony
16 today that you are not prepared to waive any commission
17 for the \$4.4 million subject funds that is proposed to
18 be recovered?

19 MR. RUKAVINA: Same objections.

20 A. I haven't agreed to seek it; I haven't agreed
21 to waive it. We'll see how things shake out. Years
22 from now, who knows what's going on?

23 Q. (BY MR. HILLYER) Then I'll -- I'll ask you more
24 directly; maybe get an answer.

25 Why are you insisting, at the bottom of

1 the page, that the money be essentially run through the
2 estate and not paid directly to the -- to the
3 bondholders?

4 MR. RUKAVINA: Objection. Asked and
5 answered.

6 A. I think I answered that: Because it's property
7 of the estate, and that's how things roll. I don't --
8 I don't pay creditors or watch creditors get paid
9 outside of a bankruptcy estate. There needs to be
10 accountings, etc.

11 Q (By MR. HILLYER) Okay. Well, let's talk about
12 the -- the general motion. So you've -- you've reached
13 an agreement with the trustee -- I mean, an agreement
14 with the bondholders for the carve-out, and you've
15 reached a settlement on March 15th, and you've reached a
16 settlement -- "green light," I believe it said -- with
17 Prosperity Bank. And you filed Motion Number 1 on
18 March 22nd. Is that correct?

19 A. That's correct, sir.

20 Q. On or about -- okay.

21 A. Yes, sir.

22 Q. So what are the terms of Settlement Motion 1
23 that you filed?

24 A. Well, if you show me the motion, that would be
25 helpful.

1 But my general recollection of -- of that
2 was that there was going to be a general release:
3 bondholder, Prosperity, trustee. Moneys would come in,
4 go out. There would be paydown, substantial paydown on
5 the bondholder debt, and the estate would have \$100,000.

6 Q. Okay. So I'm going to ask you again, with
7 those terms in mind, if you seek a commission, you did
8 propose a negative transaction?

9 MR. RUKAVINA: Objection. Argumentative.
10 Badgering. Asked and answered.

11 Q. (BY MR. HILLYER) You can answer.

12 A. I haven't sought one.

13 I haven't sought one.

14 Q. Okay. So the only money coming in to the
15 estate is the \$100,000 surcharge, and you estimated your
16 counsel, in March of 2023, had already spent a -- I'll
17 call it a guesstimate of \$50,000. Is that correct?

18 A. Yes.

19 Q. Okay. And in this proposed settlement, the
20 estate -- you were proposing to accept zero dollars in
21 exchange for the \$513,000 Prosperity payments that were
22 itemized in your motion?

23 A. Yes.

24 Q. Okay. Give me one second.

25 A. You bet.

1 Q. And Mr. Seidel, we -- we are going to look at
2 the motion. But I want to -- I want to follow up on
3 what you said earlier and what has been asked in
4 different points of this: What knowledge and what
5 documents you had.

6 So Motion 1 is filed on March 22nd. You
7 have previously identified -- I'm keeping a separate
8 list over here -- of bank statement for 3992, DACA for
9 3992, and conversations that you've had.

10 Do you know of -- at this point, when the
11 motion is filed, do you know of any other documents that
12 you or your counsel had in their possession that you
13 used in assessing your business judgment to determine --
14 to file that motion?

15 A. I can't -- I can't speak to the exact time and
16 when -- when we had bank statements on the other
17 account, etc. So I -- I don't know.

18 Q. Okay. Give me one second.

19 I'm going to ask you a little bit about --
20 do you think it is in good business judgment -- I
21 apologize; I thought -- I thought you were leaving.

22 Do you think it is in good business
23 judgment to file a 9019 settlement motion if you were
24 not in possession of any other documents than the bank
25 accounts for 3992 and the DACA for 3992?

1 A. I'm not sure.

2 Q. You're not sure that -- strike that.

3 I want to make sure I phrase this
4 correctly: You're not sure that it's good business
5 judgment, or you're not sure that those were the only
6 documents that you had?

7 A. I'm not sure that's all the documents we had.
8 We felt like we had information sufficient to do a deal,
9 or propose a compromise to the creditor body and see how
10 things looked. To get some movement forward in the
11 case.

12 Q. Mr. Langley is going to -- I believe it will
13 say "Funk e-mail," March 22nd, 3/22.

14 MR. LANGLEY: March 22nd?

15 MR. HILLYER: Yes.

16 THE WITNESS: He'll tell me when it's
17 published.

18 MR. LANGLEY: Exhibit 17 is published.
19 (EXHIBIT NO. 17, e-mail chain, beginning
20 with e-mail from Brenda Funk dated
21 March 22, 2023, was marked for
22 identification and attached hereto.)

23 THE WITNESS: Thank you. I'll pull it up.
24 I'm trying to get it bigger.

25 A. Okay. Okay, I have it up.

1 Q. (BY MR. HILLYER) Okay. Do you want to take
2 a -- do you want to take a second to review it?

3 A. Sure. It looks pretty long. I'll review it.
4 Hold on.

5 THE WITNESS: It will take me a second --
6 unless you want to come over here. Yeah, it's -- it's
7 like outrageous, but that's what you have to hit.

8 MR. HILLYER: I'm sorry. I -- I think
9 we're looking at the wrong exhibit.

10 MR. RUKAVINA: We have a very long
11 exhibit.

12 MR. HILLYER: Yeah, that's --

13 MR. RUKAVINA: 12 pages.

14 MR. HILLYER: That's not it.

15 MR. RUKAVINA: Okay.

16 THE WITNESS: I'm waiting on you to put
17 the exhibit up, correct?

18 MR. HILLYER: The correct one should be
19 Funk e-mail, Exhibit 18.

20 (EXHIBIT NO. 18, e-mail chain, beginning
21 with e-mail from Brenda Funk dated
22 March 22, 2023, was marked for
23 identification and attached hereto.)

24 THE WITNESS: And y'all let me know when
25 it's been published.

1 Q. (BY MR. HILLYER) It has been published.

2 A. Okay. I'll look for it now.

3 Q. This one should be a three-page.

4 A. Thank you.

5 Okay, I see a Funk e-mail. Three pages,
6 and I'll look at it.

7 Q. Are you ready, Mr. Seidel?

8 A. Yes. I'm -- I'm reading the last little part.
9 "I snuck a request."

10 Okay.

11 Q. Okay. So this is an e-mail between Brenda
12 Funk, Mr. Rukavina, Adam Langley, and myself. And this
13 e-mail chain starts on Wednesday, March 22nd, at
14 5:00 p.m.

15 And I'll represent to you, this is after
16 you have filed the motion on March 22nd.

17 A. I'm with you.

18 Q. Okay. And before we get into this e-mail, I
19 would also -- so to -- as you're -- strike that.

20 So this is the first communications with
21 counsel from FedEx that's in the production. Did you
22 ever, or your counsel ever discuss the -- I'm going to
23 call it "Motion 1," that was filed on 3/22 -- did you
24 ever discuss that with FedEx or ARRIS, as the two
25 largest unsecured creditors, before filing it?

1 A. I do not recall doing that.

2 Q. Okay. Do you know if -- did your counsel ever
3 discuss with FedEx or ARRIS?

4 A. I -- not that I recall. I don't -- I do not
5 recall.

6 Q. Okay. Then I'll ask it to you this way: If
7 you didn't communicate with FedEx or ARRIS before filing
8 this motion, do you feel that that is normal for the
9 two -- in a -- in a Chapter 7 case with the two largest
10 unsecured creditors?

11 A. It depends on a -- a lot of moving parts and a
12 lot of things. It just -- it varies from time to time
13 in terms of the overlay of everything happening.

14 Q. Okay. Well, going back -- and I won't make you
15 go through the exhibits in discovery, but this
16 negotiation that you've had with the bondholders has
17 been going on since early February, and with Prosperity
18 Bank, and is now March 22nd. So it's well over a month.

19 Do you think, during that month-period
20 time where you're negotiating, is there any reason why
21 you wouldn't reach out to the largest two unsecured
22 creditors to tell them what you're doing, or proposing?

23 A. It wouldn't be hidden from them, first of all.

24 Second of all, we didn't have a deal in
25 that -- that length of time, and -- you know, once we

1 had a deal, we flew it up the flagpole.

2 Q. What does that mean, "flew it up the flagpole"?

3 A. Sent it out to the world. There's a jillion
4 creditors in this case, of which, as you pointed out,
5 FedEx and ARRIS are apparently the largest.

6 Q. Mr. Seidel, do you know the size of FedEx's
7 claim in this case?

8 A. I'm fascinated by it. But I've heard that it's
9 in the 50- to 80-million-dollar range. I for the life
10 of me can't understand that, but I don't have -- that's
11 not my issue today, about what -- why that claim is in
12 that nature. I'm just trying to bring in money right
13 now.

14 Q. Okay. Well, let me rephrase the question.

15 Are you aware -- have you assessed the
16 claims pool?

17 A. I have not done a claims analysis, because we
18 don't -- we're administratively insolvent.

19 Q. Okay. So would -- would it surprise you that
20 FedEx and ARRIS have over \$110 million worth of filed
21 claims that represent over 85 -- 88 percent of the
22 entire unsecured claim pool?

23 A. No. Obviously the number is shocking, but --
24 you know, a lot of misdeeds done here prepetition.

25 But no, I think you've articulated to

1 me -- you or Adam, or maybe Noah, or my counsel -- have
2 articulated to me numbers in that range.

3 Q. Okay. So again, with the numbers as I guess
4 the foundation, is there any reason during this time
5 period when you are proposing settlements, negotiating
6 surcharges, and then filing a motion to run up the
7 flagpole, is there any reason why your office, you or
8 your office would not reach out to known counsel for the
9 two largest unsecured creditors?

10 A. Other than there was -- you know, it's
11 complicated enough. There were plenty of cooks in the
12 kitchen.

13 But, you know, as a matter of course,
14 it's -- I don't always reach out to general unsecured
15 creditor counsel when contemplating settlements in every
16 situation.

17 Q. Okay. So let's go back to Ms. Funk's e-mail.

18 A. Okay.

19 Q. I will represent to you -- so this is the
20 result of -- (overspeaking)

21 CERTIFIED STENOGRAPHER: I'm sorry?

22 THE WITNESS: Sorry; I'm -- I'm making
23 sure I've got the right one. But I'll -- I'll wait and
24 let him articulate it. I -- I stepped on him, I think.
25 Sorry.

1 Q (By MR. HILLYER) It -- it'll be Exhibit 18, the
2 three-page one.

3 A. Yeah.

4 Q. Okay.

5 A. What date?

6 Q. March 22nd.

7 A. I'm with you, Counsel.

8 Q. Okay. So Ms. Funk sends to counsel for FedEx a
9 zip file with the documents from Prosperity and a DACA
10 in your counsel's possession from the bond trustee.

11 Do you see that, at the bottom?

12 A. I do.

13 Q. Okay. And do you know what that zip file with
14 documents from Prosperity is?

15 A. I would be guessing.

16 Q. What is your guess?

17 MR. RUKAVINA: Objection. Speculation.

18 A. Whatever documents we received from Prosperity,
19 vis-à-vis bank statements, account statements, deposit
20 agreements, etc.

21 Q. (BY MR. HILLYER) Okay. Well, Mr. Seidel, look
22 at the top of that page. And there's Ms. Funk's reply
23 to my e-mail that -- in the -- and focus in the middle
24 of the page, I'm sorry, right now -- that basically, "We
25 acknowledge the DACA exclusive to 3992. Do you know any

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1 files or folders that has the current information on the
2 account at Prosperity where the funds are being held?"

3 Is that what it says? Okay.

4 A. That's what it says.

5 Q. And Ms. Funk's response is "I was looking and I
6 don't believe we received that information. Our request
7 for documents was specifically related to the Genesis
8 loan and the granting of collateral by GNI," which --
9 Goodman Networks -- "in October of 2021.

10 "While we were talking, I located the
11 Prosperity account statements for 3992. They are
12 attached."

13 Do you see that?

14 A. I do.

15 Q. Okay. So I'll represent to you, the -- the
16 zip file is all the loan documents from October of 2021
17 related to the Genesis loans, in addition to account
18 statements from 3992 and the DACA from 3992. Okay?

19 And what I'm asking you is, Mr. Seidel,
20 that actually comports with what you testified to
21 earlier, when you articulated you knew you had the
22 account statements for 3992 and the DACA for 3992. You
23 also were in possession of the Genesis loan documents
24 from a year earlier, in October of 2021.

25 Okay. My question is, Ms. Funk -- you can

1 go to the first page, and I'll be direct about this. I
2 asked specifically, "Why don't you have any other
3 documents?"

4 And Ms. Funk responds, "I snuck in a
5 request for current account statements and account
6 history into a chain with Prosperity. I'll send you
7 what I get. As Davor said, we want to get the money in
8 (and wouldn't have this" -- have -- "and wouldn't have
9 this settlement absent a release by the bond trustee),
10 and we welcome all discussions regarding how the funds
11 should be rightly distributed."

12 Okay. So I will go back to the first part
13 of that sentence. Ms. Funk's statement is saying you
14 did not have any documents or information about
15 Account 0188. Isn't that what that says?

16 A. No.

17 Q. Okay.

18 A. Unless she requests it further.

19 To me, it's saying she's requesting
20 further account statement information, account history.
21 I don't see where it says "We don't have any information
22 on any specific account."

23 Q. Okay. Mr. Seidel, I'll ask you to go back to
24 page 2. I said "Where are the documents from account
25 where it's being held?"

1 And Ms. Funk says "I was looking, and I
2 don't believe we received that information."

3 I'm not trying to fight with you.

4 MR. RUKAVINA: I'll object for the obvious
5 reasons -- go ahead.

6 I'll object for the obvious reasons, that
7 you're asking this witness to speculate and testify
8 about a discussion that you had with Ms. Funk that he's
9 not copied on. All of this is speculation, and now
10 you're starting to harass him.

11 MR. HILLYER: Okay.

12 Q. (BY MR. HILLYER) I'll ask you directly: Did
13 you have documents and account information regarding
14 Account 0188 on March 22nd of 2023?

15 A. I am not sure.

16 Q. Would this e-mail make -- lead you to believe
17 that you didn't have that information?

18 MR. RUKAVINA: Speculation. Objection.

19 Q. (BY MR. HILLYER) Okay. Is there any -- I'll
20 rephrase it.

21 Is there any reason why you would
22 withhold -- or fail to give FedEx and ARRIS that
23 information on March 22nd of 2023, after you filed the
24 motion?

25 A. Not that I can think of.

1 Q. Okay. Let's go back to what Mr. Langley
2 erroneously introduced as Exhibit 17, which is the Funk
3 e-mail, which is -- I'll submit I was not counting on
4 having two Funk e-mails, March 22nd, labeled the exact
5 same. But it should be Exhibit 17.

6 A. And that's the really lengthy one, right?

7 MR. RUKAVINA: It's the lengthy one.
8 Maybe it only starts halfway up.

9 A. Okay. I'll let you direct me to what -- what
10 you want.

11 MR. RUKAVINA: You have the right to read
12 the whole thing.

13 THE WITNESS: Yeah.

14 MR. HILLYER: Give me one second. It's
15 not coming up on my screen.

16 MR. RUKAVINA: When it does, Cam, to
17 expedite matters, just point us to where this is
18 different from a prior chain, if you can.

19 Q. (BY MR. HILLYER) I really am only looking at
20 the first line, and I apologize for the lengthy e-mail.

21 So that is an e-mail from Ms. Funk to
22 Ms. Argeroplos.

23 A. The one that says, "Can you send me an
24 account"? I'm sorry.

25 Q. Yes. Yes. I'm sorry. This -- it's an e-mail

1 from Ms. Funk to Ms. Argeroplos, and it -- it's -- it is
2 at the time of the e-mails with Ms. Funk and me and
3 Mr. Langley. And Ms. Funk then asks the bank to "send
4 an account statement and account history for our
5 records."

6 Do you see that?

7 A. I do.

8 Q. So I'm just going to ask you simply: I asked
9 you, did you have that information; you said you don't
10 know. Based on your reading of this, is there any
11 reason why you would have it, and be asking for it
12 again, after counsel for FedEx asked for it?

13 A. You never know. You know, you could be asking
14 for account statements to make sure you've got
15 everything; you may already have it.

16 I just don't know -- I'm not trying to be
17 cute or argumentative with you. I just don't know what
18 Ms. Funk had. She's asking for account statement, an
19 account history, to make sure she's got her complete
20 file, it seems to me.

21 Q. Okay. And then --

22 MR. RUKAVINA: Cam, can I interject? If
23 it can help, is this the subject of our e-mail exchange
24 from a couple weeks ago?

25 MR. HILLYER: No, it is not.

1 MR. RUKAVINA: Okay.

2 MR. HILLYER: We will -- we will discuss
3 that when we -- when we get to it. But I understand
4 your question.

5 Q. (BY MR. HILLYER) What I'm -- what I'm asking
6 is, if you had account information from 0188, including
7 the statements and the history, you would have produced
8 those to us in response to our requests for admission,
9 wouldn't you have?

10 A. You would think so, yes.

11 Q. Okay. And if you did not, and they are not in
12 there, then they were not in your possession. Would
13 that be a fair statement?

14 A. That should be the way the game is played.

15 Q. Okay. So -- I'm not trying to re-ask you. So
16 if you didn't produce it in your request for production,
17 you did not have that information?

18 A. That's fair.

19 Q. Thank you.

20 A. Yes, sir.

21 Q. This whole line of questioning about
22 the 0188 account was precipitated by my questioning --
23 the line of questioning related to filing Motion 1 and
24 your business judgment. And I asked the question, do
25 you consider that good business judgment, to file a

1 settlement motion when you are not in possession of the
2 documents showing where the subject funds are located?
3 And you answered, "I'm not sure we didn't have it."

4 I'm asking you now, is if you didn't
5 produce it, and Ms. Funk said that -- was asking for it
6 again, I'll re-ask the business judgment: Do you think
7 that is good business judgment, to settle this claim
8 and -- settle these claims, and file that motion,
9 lacking that information?

10 A. It could be, yes.

11 Q. Okay. It could be good business judgment? I'm
12 sorry, you -- you have to explain that.

13 A. Yep.

14 Q. Okay.

15 A. Yeah, I mean, depending on the universe of
16 knowledge of my counsel, as they related to me, with
17 regard to the underlying circumstances and facts
18 surrounding the transactions.

19 Q. Okay. I'll ask you a related question. How
20 can you possibly conduct any analysis about the subject
21 funds if you don't know where they're located,
22 Mr. Seidel?

23 A. I don't know that we didn't know where they
24 were located. I think we knew they were located at
25 Prosperity. I know that -- you know, we had these

1 double accounts. And it's obvious from what you're
2 pointing out that apparently, at this point in time, we
3 did not have the documentation with regard to one of the
4 accounts, perhaps.

5 Q. Okay. So if you don't have documentation, are
6 you relying on -- I'll call it hearsay. Is this --
7 who's providing you this information without
8 documentation about the location of the current account?

9 A. I'm not positive if it came from bondholders,
10 Prosperity, FedEx. I don't know who was communicating
11 with my team with regard to that. I just can't testify
12 to that.

13 Q. Okay. So your -- when you say your team, it's
14 Mr. Rukavina, Ms. Funk, Mr. Berghman, correct?

15 A. That's -- that's pretty much the team.

16 Q. Okay. So your team is communicating with
17 counsel for the bank and the bondholders, and then
18 communicating that information, without documentation,
19 to you. Is that what you're saying?

20 A. I'm saying some -- they may have not had some
21 documentation, but they were communicating with me.

22 Q. Okay. And I'll ask you again: If Ms. Funk
23 sent to FedEx, "This is what we have in our possession,"
24 would that not be exactly what they -- strike that.

25 If -- if your counsel can only send a DACA

1 and an account statement for 3992 in Genesis loan
2 documents from October of 2021 to counsel for FedEx and
3 ARRIS after the motion is filed, what could possibly
4 lead you to believe that you had other documentation?

5 A. I -- I don't know if she -- I mean, I've made a
6 mistake before. I don't know. But I would think
7 that -- when she says "We're sending you everything
8 we've got in terms of documentation," she did so.

9 Q. I understand.

10 Look -- the last line of Exhibit 17 -- I
11 mean, the Exhibit 17 we were looking at, Ms. Funk says,
12 we are welcome -- "and we welcome all discussion
13 regarding how the funds should be rightly distributed."

14 What's your understanding of that?

15 A. Let me get to it.

16 That sounds to me like she's reaching out
17 for comments with regard to the compromise. That's what
18 it sounds like to me.

19 Q. Have you read it?

20 A. Oh. Show me where it is.

21 Q. I'm sorry. It's the -- it's the last sentence
22 of -- of the very top of the Exhibit 18.

23 A. Okay. I'm on the top of 18. That's "Can you
24 send an account statement." Then you want me to go
25 down?

1 Q. No. You're on Exhibit 17. I'm sorry.

2 A. I apologize. I apologize.

3 Q. It's all right.

4 A. Exhibit 18, you want me to look at.

5 And "As Davor said" -- "we welcome all
6 discussion regarding how the funds should be rightly
7 disbursed."

8 Q. That's correct. That's what my question was,
9 is what is your understanding of what that means?

10 A. My understanding is we're reaching out to FedEx
11 with regard to what they think about the -- the funds,
12 and how they think that should roll.

13 Q. Okay. So I'll ask you: This is post filing of
14 the motion, and you said that you didn't reach out to
15 FedEx before filing the motion. So my question is, what
16 are you asking -- or what is your counsel asking --
17 haven't you made the decision of how you're going to
18 distribute the funds? Because that's the actual terms
19 of the settlement you proposed?

20 A. No. We're asking for input on the deal that --
21 proposed.

22 Q. Okay. So are you asking FedEx if they have a
23 claim to the funds?

24 A. "We welcome all discussion." I think -- "all
25 discussion." That's -- that's how I read it. I don't

1 know what she meant with -- with regard to the remainder
2 of that sentence.

3 Q. Okay. So my confusion, Mr. Seidel, is that I
4 believe you already testified at this point, when you
5 have filed the motion, you've already done your analysis
6 as to who you think should receive the subject funds. I
7 believe that's what you testified to earlier.

8 A. Okay.

9 Q. Okay. So if you've done your analysis, and
10 your analysis led you to believe that the bondholder
11 should receive all of the subject funds, less a
12 surcharge, and in your business judgment you chose to
13 file that motion, why are you reaching out to unsecured
14 creditors after the filing, asking for their input, if
15 it would be opposite of what your analysis showed?

16 A. To make sure we didn't -- we didn't leave any
17 stone unturned.

18 Q. Okay. Did you have concerns about your
19 analysis at the time you filed the motion?

20 A. I don't recall that I had concerns.

21 Q. Okay. Okay. And so let's talk about that.
22 Is -- your analysis as to the subject funds, what did
23 your analysis say, or what was your understanding of
24 that analysis on March 22nd, when you filed Motion 1?

25 MR. RUKAVINA: Objection. Vague.

1 A. Can you hit me again?

2 Q. (BY MR. HILLYER) Sure. I'll restate it.

3 On March 22nd, when you filed this motion,
4 what was your analysis as to the subject funds and how
5 the funds should be rightly distributed?

6 A. Basically that they were -- should be
7 distributed to the bondholders, according to our
8 analysis.

9 Q. Okay. Who is all -- when you say "our
10 analysis," are you including other people in that?

11 A. Well, my -- my team, my lawyers.

12 Q. Okay. And who provided you that analysis?

13 A. That would be Mr. Rukavina, Ms. Funk -- I don't
14 know if Mr. Berghman was involved at that point in time
15 or not. I don't know if there are other lawyers at
16 Munsch. But suffice to say the two people in these
17 e-mails were on point.

18 Q. Okay.

19 A. That would be Mr. Rukavina -- Mr. Rukavina and
20 Ms. Funk were on point.

21 Q. Okay. And did Mr. Rukavina and Ms. Funk
22 provide you a written analysis regarding the subject
23 funds and their distribution?

24 MR. RUKAVINA: Object, based on the
25 privilege.

1 And I'll instruct you not to answer that
2 question.

3 MR. HILLYER: I'm not asking the subject
4 matter of it. I'm just asking if he provided written or
5 unwritten.

6 MR. RUKAVINA: No, sir. You're not going
7 to get the answer, not without a court order, not after
8 you threatened to breach the attorney-client privilege
9 based on his prior interrogatory response.

10 So we're going to tread
11 hyperconservatively regarding the privilege. And if we
12 need to go to the judge on that, we can.

13 MR. HILLYER: Okay. So for the record,
14 you're instructing him not to answer the question of did
15 his counsel provide him a written analysis regarding the
16 subject funds?

17 MR. RUKAVINA: Yes.

18 MR. HILLYER: Okay. We can take that up
19 later.

20 MR. RUKAVINA: No, let's take it up now.
21 If I've got to stop the deposition or if you've got to,
22 let's take it up now.

23 MR. HILLYER: Okay.

24 MR. RUKAVINA: Unless you guys want to
25 agree that he can talk about this and not waive the

1 privilege, in light of your recent communication to me
2 that you think that the privilege has already been
3 waived, like I say, I'm not going to take any chances
4 today.

5 MR. HILLYER: Okay. Give me one second,
6 let me think about that.

7 (Pause)

8 MR. RUKAVINA: It's been about an hour.
9 Do you want to take a quick break?

10 MR. HILLYER: All right.

11 Q. (BY MR. HILLYER) Well, let me ask you this
12 question, which may impact: Did you do any independent
13 analysis of the subject funds and how they should be
14 distributed?

15 MR. RUKAVINA: Let me -- let me just
16 interject again. What you are trying to do here is
17 trying to get him to admit that he adopted his counsel's
18 recommendation or advice. You argue that the -- hold
19 on.

20 You asked that he adopt -- I'm sorry. You
21 argued that the act of adoption waives the
22 attorney-client privilege. You are now going into
23 questions, the sole purpose of which is to waive the
24 attorney-client privilege.

25 So I'm not going to let you answer that

1 question either, Mr. Seidel. Not without going to seek
2 a protective order. Not unless you guys are willing to
3 back off your threat that the attorney-client privilege
4 has or will be waived.

5 THE WITNESS: I'm ready for a break. I
6 don't know about anybody else.

7 MR. HILLYER: Okay. Well, let's hold on
8 this point, because I -- I think we can think about
9 this.

10 I'm -- the question about the independent
11 analysis is spot on with what your attorney just said,
12 is -- if you did or did not do -- if you did, I'll ask
13 you about your independent analysis; if you did not,
14 then we need to -- then I -- we can take a short break,
15 and I need to consider about agreeing to limit privilege
16 that -- so that you can discuss the analysis, if you
17 didn't conduct any of your own.

18 So let's take a short five-minute break,
19 and then we'll come back.

20 THE WITNESS: We'll be on break? Are we
21 off the record?

22 VIDEOGRAPHER: We're going off the record.
23 The time is approximately 3:32 p.m.

24 (Recess)

25 VIDEOGRAPHER: We're going back on the

1 record. The time is approximately 3:52 p.m.

2 Q. (BY MR. HILLYER) All right, Mr. Seidel, let's
3 try to clarify for the record where we are.

4 I asked the question, did your legal
5 counsel provide you a written analysis regarding the
6 subject funds and any liens attached to them and how the
7 funds should be distributed? And your counsel objected
8 as to privilege.

9 MR. HILLYER: Is that correct, Davor?

10 MR. RUKAVINA: And I instructed him not to
11 answer.

12 MR. HILLYER: Okay. So the -- so the
13 question of whether they provided a written analysis is
14 off the table.

15 Q. (BY MR. HILLYER) Second question is,
16 Mr. Seidel, did you independently do a legal analysis --
17 factual and legal analysis of the subject funds as
18 defined in your motion, their current location, any
19 lien, perfection, secured or unsecured, or Article 9
20 analysis independently?

21 MR. RUKAVINA: I'm going to object to that
22 question as multifaceted and vague. It's five questions
23 in one. I ask counsel to rephrase.

24 Q. (BY MR. HILLYER) Did you do an independent
25 analysis -- an independent factual and legal analysis,

1 pursuant to Article 9, as to the subject funds as
2 defined in your motion?

3 MR. RUKAVINA: And I instruct you not to
4 answer that question.

5 That is a setup question to buck the
6 attorney-client privilege, and you yourself are a
7 lawyer; I would take it providing yourself some limited
8 legal analysis.

9 So I instruct the witness not to answer
10 that question.

11 MR. HILLYER: So he will not -- I'm
12 confused why we went back on the record. So -- so he's
13 not going to answer the question of if he did an
14 independent analysis?

15 MR. RUKAVINA: No. You just asked a
16 question that had two parts: Did you do a factual and a
17 legal analysis under Article 9 of the UCC? That
18 question, that, I'm not going to let him answer.

19 Again, you can try to be more specific.
20 For example, did he do a factual analysis?

21 MR. HILLYER: Okay. But you're -- you're
22 telling him not to answer that based on what?
23 Privilege?

24 MR. RUKAVINA: Yes.

25 MR. HILLYER: Okay.

1 Q. (BY MR. HILLYER) Mr. Seidel, did you do a
2 factual analysis of the subject funds, pursuant to
3 Article 9, before you filed the motion?

4 A. Yes.

5 Q. Okay. And before we get to the next question,
6 I'll ask you, how did you do a factual analysis of the
7 subject funds if you did not have documents or know
8 where the subject funds were located?

9 A. From information from my counsel, information
10 that they gleaned either through document production
11 and/or through conversations with counsel.

12 Q. Okay.

13 A. And/or parties.

14 Q. Okay. We'll come back to that.

15 MR. HILLYER: So, Davor, here's the second
16 part to your question.

17 Q. (BY MR. HILLYER) Mr. Seidel, did you do a legal
18 Article 9 analysis of the subject funds at the time that
19 you filed the motion?

20 MR. RUKAVINA: And I'll object and
21 instruct the witness not to answer that question, based
22 on privilege.

23 MR. HILLYER: Okay. And I'm being --
24 trying to be clear, granular, as you said.

25 Q. (BY MR. HILLYER) I'm asking, did you do an

1 analysis apart from your attorneys? I should have
2 limited that because of the former objection.

3 If it changes your answer, is -- did you
4 do a legal analysis pursuant to Article 9 about the
5 subject funds, apart from your attorneys?

6 A. You asked me different questions here.

7 MR. RUKAVINA: You're asking different
8 questions --

9 THE WITNESS: Three different questions.

10 MR. RUKAVINA: -- but I'm still going to
11 object, based on the attorney-client privilege, and
12 instruct you not to answer.

13 MR. HILLYER: To be clear, that's what I
14 was trying to limit it, with "apart from the attorneys."
15 I'm only asking Mr. Seidel about whether -- I'll make
16 clear, is Mr. Seidel independently, apart from any of
17 his counsel, do a legal analysis of the subject funds,
18 and -- does your objection still stand?

19 MR. RUKAVINA: Yes.

20 MR. HILLYER: Okay. And that objection is
21 privilege?

22 MR. RUKAVINA: Privilege, relevance, and I
23 would also assert you're starting to harass this
24 witness.

25 MR. HILLYER: Okay. Well, I will

1 respectfully -- if it's relevance, he can go ahead and
2 answer. If it's privilege, you can instruct him not to
3 answer.

4 MR. RUKAVINA: I'm warning you once again,
5 and as we talked during -- off the record, I believe
6 that your questions are not asked in good faith, to find
7 facts, but are asked for the sole purpose of busting the
8 privilege. And I am prepared -- and will, if you
9 continue down this road -- seek a motion for protective
10 order under both the privilege, and generally, your --
11 your conduct of these questions is not being asked in a
12 good faith basis to find facts.

13 I state again, this witness --

14 MR. HILLYER: Okay. Well --

15 MR. RUKAVINA: -- is not an expert.
16 This -- this witness is not -- this witness is not
17 stating that the bank -- that the bondholders are or are
18 not perfected.

19 MR. HILLYER: I understand. And just for
20 the record -- and we'll reserve our rights to take this
21 up with the judge. But at this point, it's -- it's
22 Wednesday, September 13th, and we've moved this
23 deposition twice at your request, so we're a little out
24 of time to go proceed to the Court at this point with a
25 briefing deadline of Monday. So we need to go forward.

1 MR. SCHOTTENSTEIN: Sorry, just -- Cam, I
2 do want to put on the record that I do believe we're
3 being materially prejudiced by the conduct here, by the
4 continual delays, and that -- you know, in addition to
5 the privilege, you know, we're going to reserve our
6 rights to seek other relief.

7 MR. RUKAVINA: Can counsel please identify
8 what delay he's referring to? My memory is that we
9 pushed Monday, at everyone's request, to allow our
10 continuing negotiations to continue. That was not our
11 request. And what prior delay and push are you
12 referring to, please?

13 MR. SCHOTTENSTEIN: Well, we --

14 MR. HILLYER: Let's go -- let's go off
15 the -- let's go off the record --

16 MR. SCHOTTENSTEIN: Yeah.

17 MR. HILLYER: -- and -- and be -- and be
18 clear.

19 MR. RUKAVINA: I don't want to go -- no,
20 if my client and I are being threatened with other forms
21 of relief, then -- then let's stop this deposition and
22 take it in front of the judge, or let's set forth what
23 our arguments are.

24 I don't recall there being a prior delay.
25 I recall us trying to negotiate this motion with you,

1 and it being a joint decision -- Sunday maybe, Saturday;
2 I forget when -- that we pushed Monday's deposition. I
3 don't recall asking for that.

4 MR. HILLYER: You know what? Well, Davor,
5 for the record, I mean, we had -- there's no reason this
6 has to be anything but, you know, obviously
7 professional.

8 Your client called me directly and asked
9 me, "What flexibility do you have for Monday?" Because
10 Monday had gotten out of control with the AMRR.

11 And I said, "I'm very flexible." And I
12 talked about --

13 MR. RUKAVINA: That's true.

14 MR. HILLYER: -- I said, "Tuesday or -- or
15 Wednesday?"

16 And then he said, "Let's do Tuesday or
17 Wednesday."

18 You can ask your client if he called me
19 and asked that. So that was your request, and the
20 e-mail I sent said that the trustee had requested it.
21 And I was trying to be -- I was trying to be very
22 accommodating, and that's why we moved it. But I didn't
23 ask that it be moved. I didn't ask that it be moved off
24 the Friday.

25 So -- so let's just do it. All I was

1 saying is I don't want to run out of time. I want to
2 just get through the rest of this deposition and get it
3 done, and we can all reserve our rights.

4 MR. RUKAVINA: You're not going to --
5 you're not going to run out of time. We can come back
6 tomorrow; we can come back Friday; we can push the
7 hearing to the 28th, if need be.

8 I'm just telling you that I question your
9 sincerity and good faith in asking these questions. Ask
10 him any question of fact you want; he's here to -- he's
11 here to answer you that. But I respectfully -- and I've
12 known you now for eight months; I know you to be a man
13 of honor. I think that you are asking questions the
14 sole purpose of which is to set him up to waive the
15 privilege.

16 MR. HILLYER: Well, I'm -- I'm sorry you
17 feel that way. I -- I feel like I -- I have not had an
18 ulterior motive in anything at this point to the extent
19 it's being imputed to me because of the conflict of our
20 clients, but that's not. I really want to -- to be
21 clear, and so we can -- if we have to take it before the
22 judge, I really just want to know what the analysis is.

23 We can disagree on relevance, but let's --
24 let's press forward with -- as Mr. Schottenstein said,
25 with the full reservation of right, and go into the

1 motion, the terms of the motion.

2 MR. RUKAVINA: That's fine. That's fine.

3 Q. (BY MR. HILLYER) So, Mr. Seidel, in -- in
4 Motion 1 -- and I'm going to try to say, just for the
5 record, Motion 1 was filed on March 22nd; Motion 2 was
6 filed on May 17th; and Motion 3 was filed on July 28.

7 To make it easier for us, I'm going to
8 call them Motion 1, Motion 2, and Motion 3. Is that
9 acceptable for you?

10 A. That's fine.

11 Q. Okay.

12 MR. RUKAVINA: Just trying to see if --
13 see if you have it in front of you.

14 A. Do you have them to show to me, as you're
15 asking me about them?

16 Q. (BY MR. HILLYER) Okay.

17 MR. RUKAVINA: I just want to make sure --
18 Motion 1 is the March 22nd; Motion 2 is the first
19 amended? Right, Cam?

20 MR. HILLYER: No. So basically this is
21 going to be Docket 226. It's the March 22nd motion.

22 MR. RUKAVINA: That's Motion 1. Okay.

23 MR. HILLYER: Yeah.

24 MR. RUKAVINA: And what's Motion 2, Cam?

25 MR. HILLYER: Motion 2 is Docket 261.

1 MR. RUKAVINA: Hold on a sec. Hold on.
2 Hold on. Hold on. Let me get there.

3 MR. HILLYER: I'm going to introduce it
4 later on.

5 MR. RUKAVINA: Okay. I just want to make
6 sure -- yep. I'm with you. 261. That's the first
7 amended. Okay.

8 And then the -- and the Motion 3 is the
9 second amended, right? Okay. We're with you.

10 MR. LANGLEY: Exhibit 19 is the original
11 motion.

12 MR. HILLYER: So Exhibit 19 is the
13 original motion filed on March 22, 2023.

14 THE WITNESS: Let me get back to exhibits.

15 MR. RUKAVINA: Hold on. You're on full
16 screen. Got to get out of full screen.

17 MR. HILLYER: If you have a copy of it,
18 you can -- I'm happy to use hard copies of filed
19 pleadings.

20 MR. RUKAVINA: There it is.

21 A. I've got that motion in front of me,
22 Exhibit 19.

23 Q. (BY MR. HILLYER) Good to go?

24 A. Yeah, I've -- I've got it up. I've got that
25 exhibit on the display, Exhibit 19.

1 Q. Okay. And I -- I believe we already discussed
2 this previously. The terms of that motion -- you're
3 welcome to go through it, if need be -- is that there is
4 a recovery by the estate of \$4.463 million. There is an
5 agreed \$100,000 surcharge. The remainder of the 4.363
6 is remitted to the bondholders, and Prosperity Bank
7 keeps the \$513,000 Prosperity payments, and Prosperity
8 Bank is provided a global release related to the -- the
9 subject funds, the Prosperity payments, and any other
10 funds that could have come from the debtor's accounts.
11 Is that correct?

12 A. That's a fair overview of it, in my
13 recollection.

14 Q. Okay. And let's first start with the --
15 the 513. And basically -- I'm going to direct you to
16 paragraph 12 and 13 of your motion.

17 Are you there?

18 A. Yeah, I'm reading it.

19 Q. Okay.

20 A. Okay.

21 Q. Would you agree with me that paragraph 12
22 and 13 essentially mirror the same language, that the
23 debtor received no return consideration and no
24 reasonably equivalent value for the assignment of the
25 deposit account, as well as no -- no consideration and

1 no value for the Prosperity payments?

2 A. Seems to be.

3 Q. Okay. And you assert -- or the trustee asserts
4 the assignment can be avoided by him for the benefit of
5 the estate.

6 A. Yes.

7 Q. Do you believe that statement to be true?

8 A. Yes.

9 Q. Okay. You -- the trustee -- in paragraph 13,
10 "The trustee asserts that he may avoid the Prosperity
11 payments as constructively fraudulent transfers because
12 the debtor was not obligated to pay Prosperity, received
13 no reasonably equivalent value for the Prosperity
14 payments, and because James Goodman caused the debtor to
15 make the Prosperity payments in order to benefit the
16 Genesis borrowers and himself."

17 A. Yes.

18 Q. Is that a true -- do you believe that to be a
19 true statement?

20 A. Yes.

21 Q. Okay. So you have now asserted in the motion
22 that you can avoid the assignment, and you can avoid the
23 Prosperity payments as constructively fraudulent
24 transfers, in consecutive paragraphs, correct?

25 A. That I may avoid them.

1 Q. Well, let's go back. You said the assignment
2 can be avoided, and you said the trustee asserts that he
3 may avoid. Are you making a distinction between those
4 two?

5 A. Two different words, to me. The trustee
6 asserts that he may avoid; that's what it says. And
7 that's what we assert.

8 Q. Okay. Well, I'm asking you, are you saying
9 that you are making a distinction between "can avoid"
10 the assignment, and "may avoid" the Prosperity payments;
11 does that mean two different things to you? Or do they
12 mean the same thing?

13 A. Show me where the word "can" is.

14 MR. RUKAVINA: You have to scroll.

15 THE WITNESS: Scroll up?

16 Q (By MR. HILLYER) Yeah, it's right above it.
17 Sorry. Look at January 22nd, and go straight up.

18 MR. RUKAVINA: Scroll down.

19 THE WITNESS: Yep.

20 A. That he can avoid. It can be avoided by him.
21 That's what it says.

22 Q. (BY MR. HILLYER) Right. So my question was --
23 I'm just trying to make sure that you're not -- we're
24 not parsing words.

25 Are you saying that there is a

1 significance to "can be avoided" versus "may avoid"?

2 A. I'm not sure. I don't -- I don't think so.

3 Q. You don't think so. Okay.

4 So would it be a fair statement to say
5 those are the exact same allegations with different
6 verbiage, nonmaterial verbiage, that was in the draft
7 complaint that you sent to Prosperity Bank?

8 A. I believe so.

9 Q. Okay.

10 A. I'll take your word for it.

11 Q. Okay. Well, I'll make it -- Mr. Seidel, in the
12 draft complaint, you were seeking a declaratory judgment
13 to avoid the assignment, and you were seeking to recover
14 the Prosperity payments as a fraudulent transfer,
15 correct?

16 A. Correct.

17 Q. Okay. And that is -- that is essentially what
18 paragraphs 12 and 13 are -- are reiterating? 12 and 13
19 of Motion 1?

20 A. Correct.

21 Q. Okay. And so I'll ask you again, in the
22 context of your motion that was asked in the draft
23 complaint, is when you put those statements in there,
24 and you said "can be avoided" and "may avoid," did you
25 assess the likelihood of success that you could avoid

1 the assignment, or that you may avoid the Prosperity
2 payments?

3 A. I -- yes.

4 Q. Okay. And I believe earlier you stated that
5 you did not want to use percentages, and I believe you
6 said "decent," or "not bad." Is that correct?

7 A. Yes.

8 Q. Okay. Does it stand -- is it -- your opinion
9 the same in the context of the motion that you think the
10 likelihood of the -- success of the two allegations put
11 in paragraph 12 and 13 are decent or not bad?

12 A. Sure.

13 Q. Okay. And so I will then ask you, this motion
14 proposes -- this motion proposes a payment of zero
15 dollars in exchange for the release of liability for the
16 Prosperity payments. Is that correct?

17 A. Yes.

18 Q. Okay. So explain to me how decent or not bad
19 claims are worth zero dollars in a settlement.

20 A. Well, at this scenario, from what I recall, we
21 were under the impression that -- that the bondholders
22 were oversecured. We had a \$22 million offer on the
23 table from Frinzi. We had this 4 million. We had
24 millions owed under the insurance policies, etc.

25 And so we were trying to move the ball

1 forward with regard to flowing money. Get the
2 bondholders out, to get Prosperity untangled, and to
3 focus on the bad guys, and not spend a bunch of money --
4 and not spend a bunch of money litigating.

5 Q. Okay. Well, you threw a lot of -- a lot of
6 concepts in that answer that are -- that are outside the
7 scope of your motion related to AMRR. What I'm asking
8 you is, do you think that is reasonable for the estate
9 to release a fraudulent transfer claim that is decent,
10 or not bad, in exchange for zero dollars?

11 A. I did at the time.

12 Q. I'll ask again: Why would you think that zero
13 dollars for a claim -- or strike that.

14 A zero dollar recovery on a fraudulent
15 transfer claim for the estate is what you're proposing.
16 Why would you think that is reasonable or in your good
17 business judgment?

18 A. Because the lay of the land at that point in
19 time -- because the way -- let's see. Hold on. Let me
20 look at the complaint.

21 It says, as is indicated in the motion,
22 "The collateral agent and majority noteholders have
23 asserted the claim under the notes were oversecured,"
24 and like it says there, "on a preliminary basis, it
25 appears to the trustee that this may be correct."

1 "Would be able to claim postpetition
2 interest, default interest, attorney's fees" -- all
3 kinds of fees that we were contemplating having to pay
4 that were ticking with the bondholders. We were trying
5 to stop that clock, default interest, etc. Also
6 minimizing the cost of litigation.

7 Q. Okay. So we'll address each part of -- of what
8 you just said. So basically -- so am I correct that
9 you're making this about timing; that settling for zero
10 dollars on this fraudulent transfer claim was reasonable
11 because you felt that the bondholders were oversecured,
12 and therefore the reduction of their alleged secured
13 interest in this justified giving up the fraudulent
14 transfer, the estate's claim for a fraudulent transfer
15 for the 513?

16 A. That's a component, just like I said.

17 Q. Okay. Well, let's fast-forward. You don't
18 believe the bondholders are oversecured right now, do
19 you?

20 A. Does not appear so.

21 Q. Okay. So what analysis did you do in March
22 of 22nd that led you to rely on them being oversecured
23 as a basis for this motion that has changed in a later
24 reiteration of the motion?

25 A. Dealt with Mr. Frinzi, would be the major.

1 Q. I'm not sure I understand. "Dealt with
2 Mr. Frinzi"?

3 A. Right. He had \$22 million on the table,
4 supposedly. That vanished. That's a -- that's a
5 different dynamic. It was a change in the landscape.

6 Q. So were you -- were you -- strike that.

7 So as part of that -- I'm trying to
8 understand is -- Mr. Frinzi's \$22 million, you assessed
9 that as collateral of the bank, and which would have
10 made them oversecured? Am I understanding that right?

11 A. I think you've got it. In other words, that
12 money could have been utilized to get them -- help get
13 them out of the picture, stop that run, and focus --
14 begin to be able to focus on unsecured, etc.

15 Q. Okay. What is your legal basis that the
16 bondholders were secured by Mr. Frinzi's \$22 million
17 offer?

18 MR. RUKAVINA: Can you answer that
19 question without attorney-client privilege?

20 THE WITNESS: No.

21 MR. RUKAVINA: Then I instruct you not to
22 answer.

23 Q. (BY MR. HILLYER) To be clear, are you -- you're
24 saying you can't answer that question without divulging
25 attorney-client privilege?

1 A. Correct.

2 Q. Okay. Well, then, let's ask the same question:
3 Were you provided an analysis by your legal counsel as
4 to the bondholders' oversecured or undersecured position
5 when you filed this motion?

6 MR. RUKAVINA: I'll object to that as
7 necessarily invading the attorney-client privilege, and
8 I'll instruct the witness not to answer.

9 Q. (BY MR. HILLYER) Mr. Seidel, you say that in
10 Motion 1 -- let me find the exact line. Be patient with
11 me. All right. Thank -- thank you for the -- the
12 second; Adam needed to find it in the small, single
13 print.

14 Turn to page 9 of the motion.

15 A. Page nine. I've got part of it up.

16 Q. Okay. Top bullet point.

17 A. "The collateral agent and majority
18 noteholders"? That part?

19 Q. Yes.

20 A. Okay.

21 Q. It says "The collateral agent and majority
22 noteholders have asserted that the claims under the
23 notes are oversecured and, on a preliminary basis, it
24 appears to the trustee that this may be correct." Okay?

25 So I'm going to ask you, that is your

1 actual statement in this motion. What do you base that
2 statement on? What knowledge?

3 A. The knowledge of what this estate looked like
4 at that point in time, in terms of the \$22 million offer
5 on the table, the claims of the estate assets, etc.

6 Q. Okay. And when you say that, I'm asking in the
7 context of your saying that the bondholders are
8 oversecured. So when you talk about claims and assets,
9 you're talking about -- secured assets would be the only
10 relevant assets or claims, correct?

11 A. It would -- it would follow.

12 Q. I'm sorry. Did you say "it would flow"?

13 A. Sorry. Yeah, it would follow, yes.

14 Q. Okay. Okay. So at the time that you made that
15 statement in the motion, did you have a list of what you
16 considered the bondholders' secured collateral?

17 A. I don't recall if I had a list.

18 Q. Okay. Well, let me ask it more generally:
19 Were you just speculating with that sentence?

20 A. I don't believe I was just speculating. I
21 think we were looking at the lay of the land at that
22 point in time, and that's what -- that was the apparent
23 lay of the land there.

24 Q. Okay. And when you say "lay of the land,"
25 you're talking about a proposed settlement with Frinzi,

1 and what else?

2 A. Claims of the estate, be it insurance
3 reimbursements, etc. At subsidiary levels, and on and
4 on.

5 Q. Okay. So I'm going to ask you this. So you
6 previously testified you do not believe they are
7 oversecured at this point?

8 A. I believe -- I believe that's a fair statement.

9 Q. Okay. And do you know approximately at what
10 point in this process you made that determination?

11 A. I don't recall a date.

12 Q. Okay. After Motion 1?

13 A. Yes.

14 Q. Okay. After Motion 2 or before Motion 2?

15 A. I believe before Motion 2.

16 Q. Okay. So what I'm going to ask you is, with
17 the knowledge that -- that you believe they are not
18 oversecured, going back to the original question about
19 the Prosperity payments, which you then based on timing,
20 if they are not -- they -- if the bondholders are not
21 oversecured, was there any reason to rush this
22 settlement because of timing, and receive zero dollars
23 for the Prosperity payments?

24 A. I don't think it was rushed. It was just -- it
25 was then -- that was some momentum we were trying to

1 build with a creditor to get the creditor paid to stop
2 that run of fees, interest, attorneys fees, etc., and to
3 move the ball forward.

4 Q. Okay. When you say "creditors," you mean
5 secured creditors?

6 A. Well, yeah, that would flow, that it -- that
7 secured creditor body.

8 Q. Right. Because no unsecured --

9 A. Creditors.

10 Q. I'm sorry.

11 No unsecured creditors are receiving any
12 money from Motion Number 1; is that correct?

13 A. It's going into the estate.

14 Q. Okay. So your surcharge is going into the
15 estate.

16 And I guess I'll ask you this question:
17 Do you believe a -- of the \$100,000 that you were
18 proposing to take, would the prepetition unsecured
19 creditors have seen one penny of that \$100,000?

20 A. I -- I doubt it.

21 Q. Okay. Give me one second.

22 So, Mr. Seidel, I'm -- I'm going to try to
23 separate out -- we're using the term "Prosperity
24 payments" and "subject funds." Okay? And we've asked a
25 lot of questions about the Prosperity payments. And my

1 question is, why did you not independently, without the
2 bondholders, pursue the Prosperity payments on behalf of
3 the estate, under the 548, and try to recover funds?

4 A. It didn't seem like the highest and best use of
5 the time, effort, energy of the estate at the time.

6 Q. So --

7 A. Picking a fight -- I'm sorry.

8 Picking a fight with a big bank at that
9 point in time, when we're trying to get the 4.4 million,
10 that -- that just -- that just didn't seem like -- seem
11 like the way to go.

12 They were jumping up and down that they
13 would defend it. We know about suing banks; time,
14 delay, expense, risk, etc.

15 Q. So correct me if I'm wrong: So your primary
16 concern was the subject funds and the Prosperity
17 payments -- was it just a minor or collateral issue?
18 I'm trying to understand why you're focusing on the
19 subject funds aspect.

20 So I'll re-ask the question: Are you
21 scared of suing a bank under a 548 constructively
22 fraudulent transfer claim?

23 A. No.

24 Q. Okay. And how many -- how many 548 claims have
25 you filed in your career?

1 A. Hundreds.

2 Q. Okay. Have you ever filed a 548 claim and
3 settled for zero?

4 A. Yes.

5 Q. You filed -- you filed a 548 complaint and
6 filed a 9019 motion with the Court for a zero dollar
7 settlement?

8 A. I'm sure I have abandoned it.

9 Q. Okay. That's not what I asked. I didn't say
10 "abandoned it." I'm saying -- I'm saying you -- I
11 didn't ask you if you ultimately received zero dollars.
12 I'm asking, is -- have you ever sued anyone on a 548,
13 and they have offered you zero dollars as a settlement
14 payment, and you have taken that?

15 A. Have they ever offered me zero dollars, and
16 I've taken that?

17 Q. Yes.

18 A. That would -- that would be in the -- in the
19 ballpark of abandonment. In other words, you get into a
20 lawsuit with someone, you understand that the -- the
21 pain that they're going to inflict upon you, the
22 expense, the delay, etc., is it worth it? Whether or
23 not the offer is zero, they've said they're not going to
24 give you anything.

25 So I've abandoned adversaries before that

1 I've brought, that aren't -- aren't going to be
2 beneficial to continue to prosecute.

3 Q. Okay. So in this case, in this motion, when
4 you're receiving zero dollars, are you also viewing that
5 as essentially an abandonment of the Prosperity
6 payments?

7 A. No. This is a compromise with -- you know,
8 this -- this is a little different than that scenario.
9 You had asked me if I sued and received zero dollars;
10 and, yes, that happens.

11 But in this scenario, I didn't sue to
12 receive zero dollars. I did an omnibus compromise with
13 regard to additional 4.4 million that was going to come
14 in and come through the estate, get the bondholders paid
15 down, stop that clock, hopefully -- or at least reduce
16 that -- and then the 500, that would be -- that would go
17 away.

18 Q. Okay. Well, let me ask you, so if you were
19 prepared to take \$100,000 for the surcharge for the
20 4.4 million, I'll ask it again: Why did these have to
21 be inextricably tied, just because of the parties? Why
22 could you not have taken \$100,000 surcharge related to
23 the subject funds, that could have been its own dispute,
24 and why could you have not gone and settled the
25 Prosperity payments claim for some value other than

1 zero?

2 A. My recollection is Prosperity wanted the
3 general release.

4 Q. Okay. I'm not sure I -- you mean -- "general";
5 you mean global release?

6 A. Global. Sorry. I misspoke. Global.

7 Q. Okay. Well, I -- I guess that's what I'm
8 asking you is, it's your claims to pursue, Mr. Seidel.
9 Is Prosperity telling you that "We don't want to settle
10 with you," and then have to do a separate settlement?

11 I'm trying to understand why you feel like
12 you were forced into this settlement posture where the
13 Prosperity payments had to be included for zero dollars.
14 I mean, that's as -- as concise as I can put it.

15 A. Prosperity -- I don't know -- I don't know what
16 your background is when dealing with banks, but when
17 you're doing a deal with a bank, my experience is they
18 want the global release if you're going to do any kind
19 of deal with them. And that's what -- that's what the
20 course was here.

21 Q. Okay. And I'll go back to my question of, were
22 you scared to sue the bank? And you answered no.

23 A. Not scared of them. But I do understand the
24 cost delay risks of litigation, and litigating with a
25 bank. And the amount of money, while \$500,000 is

1 nothing to sneeze at, we all can see how you can run
2 100, 150, \$200,000 in fees real quick.

3 Q. So --

4 A. And then not have any assurance of recovery.

5 Q. So did you ever -- before filing Motion 1, did
6 you ever ask Prosperity Bank to put money into the
7 estate for the Prosperity payments?

8 A. I don't recall.

9 Q. You don't recall if you made a settlement offer
10 that they rejected with zero?

11 A. I don't recall. I mean, I asked for
12 \$1 million; you saw -- I mean, asking everybody for
13 every penny. But I don't -- I don't have an independent
14 recollection, sitting here today right now, of that.

15 Q. Okay. I'm having trouble understanding that,
16 Mr. Seidel. Are you saying that you weren't involved?
17 Or are you saying that you were involved and you don't
18 recall?

19 A. The latter.

20 Q. Okay. And so sitting here today, you don't
21 know if you asked them to put in money -- "them" being
22 Prosperity Bank -- to put in money for the Prosperity
23 payments, and they told you zero. You don't know that;
24 you can't remember that?

25 A. I'd have to go back and look at notes, e-mails,

1 etc. I -- I don't remember, at that point in time,
2 March 22, 2023, what the demand -- the ask and the
3 response was on that particular issue.

4 Q. Okay. Okay. Give me one second.

5 So, Mr. Seidel, after Motion 1 was filed,
6 you received from FedEx and ARRIS a draft objection; is
7 that correct?

8 A. That's my recollection. Yes, sir.

9 Q. Okay. And at that time, was a fair statement
10 that you went back to the bondholders and Prosperity and
11 retraded on the deal?

12 A. I think that -- you broke up just a little bit,
13 but I think that's generally true. We tried to leverage
14 that -- we tried to leverage that -- the points that
15 FedEx was helping with.

16 Q. So we previously discussed that FedEx and
17 ARRIS, you had no communications with them before the
18 motion was filed, correct?

19 A. My recollection is I didn't recall any, but
20 I -- I don't know that I said we had no communication.
21 But I don't recall -- I don't recall it.

22 Q. Okay. Did you discuss at any point, with FedEx
23 or your counsel, the second -- I'll call it Motion 2,
24 the first amended motion, that changed the financial
25 terms, before it was filed?

1 A. I'm -- I'm sorry. I can't give you a
2 definitive answer on that. I -- I don't know if I or
3 any of my team spoke with FedEx counsel prior to filing
4 Number 2.

5 Q. Okay.

6 A. I'm just -- I'm just unsure. I stand to be
7 corrected. I can look at e-mails. I just don't have
8 that time frame solid in my mind.

9 Q. Well, I guess what I'm asking you is, you have
10 the two largest unsecured creditors that have now given
11 you a draft objection and are requesting documents -- we
12 saw that in the e-mails, okay? And then you go and
13 retrade the deal.

14 And I'm asking you is, would that shock
15 you, that you didn't consult with FedEx or ARRIS about
16 the change in the terms of the settlement before
17 Motion 2 was filed?

18 A. I would think that their input -- their input
19 was taken -- taken in to account. Through counsel,
20 there was probably telephone calls and/or e-mails
21 exchanged, I would guess, between counsel for me,
22 counsel for that creditor, that sent a proposed form of
23 objection.

24 But I can't testify that I talked to them.

25 Q. Okay. So I guess what I'm asking is, let's be

1 specific: So Motion Number 2, the surcharge went up to
2 \$150,000?

3 A. Right.

4 Q. And Prosperity Bank kicked in 200 -- an
5 additional \$200,000 on account of the Prosperity
6 payments, 513; is that correct?

7 A. That's correct, sir.

8 Q. Okay. And the global release stayed the same?

9 A. That's correct, sir.

10 Q. Okay. And what I'm asking you is, did you or
11 anyone on your team consult with FedEx and ARRIS counsel
12 before agreeing to the \$200,000 change with Prosperity,
13 or the 100 to \$150,000 surcharge change, those two
14 material terms? Was that ever discussed with FedEx and
15 ARRIS counsel?

16 A. I don't know that the exact numbers were
17 exchanged, but we utilized -- visited with FedEx
18 counsel, ARRIS counsel. Like I said, leveraged that
19 with the parties, and the creditors were helpful in
20 getting this new, better deal.

21 And I don't know that they -- that we got
22 an absolute agreement on the numbers from them, or
23 approval from FedEx and/or ARRIS, prior to filing
24 Number 2.

25 Q. Do you think that you ever presented 200,000

1 and 150 change to FedEx or ARRIS, or your counsel did?

2 A. I know we heard them out on what they thought
3 and what their analysis was on that. It was very
4 helpful in helping us sweeten this deal for the estate.

5 But to answer your question, I do not -- I
6 am not positive, sitting here today, before filing
7 Motion Number 2, that we had FedEx and ARRIS's consent
8 to do that deal.

9 Q. Okay. So let's talk about the gap. So
10 May 22nd, Motion 1; March 17th, Motion 2. Okay? During
11 that time period, are you --

12 A. I'm sorry, I'm sorry. Can you give it to me
13 again? Give me the dates again?

14 Q. Motion 1 is March 22nd. And Motion 2 is
15 May 17th.

16 A. Okay. Thank you.

17 Q. Okay. So -- so within that -- I'm going to
18 approximate it: March to April, April to May. It's
19 five days short of two months. Okay? Would you agree?

20 A. Yes, sir.

21 Q. Okay. So --

22 A. Yes, sir.

23 Q. -- within that approximate two-month period,
24 other than retrading the financial terms with the
25 bondholders and Prosperity, are you still doing

1 investigations?

2 A. I would think that that's a never-ending
3 process, investigations. That never stops. I'm always
4 open to investigating and looking and seeing if we
5 missed anything, etc.

6 Q. So do you know what documents you had or had
7 reviewed at the time of the filing of the second motion?

8 A. That would have been the documents I -- I
9 referenced before, and any documents that FedEx and/or
10 ARRIS may have provided to assist us in those endeavors.

11 Q. Okay. But -- and I can certainly say you
12 produced your first request for production of documents
13 to FedEx and ARRIS on June 11th, I believe. And so what
14 I'm asking --

15 A. Okay.

16 Q. So what I'm asking you is, anything that you
17 had at the time of the filing of the second motion, that
18 would have been in your production as well?

19 A. I would assume so, yes, sir.

20 Q. Okay. And -- give me one second.

21 A. Yes, sir.

22 Q. So I'll ask you, just in general, at the time
23 you filed the second motion, with the changed financial
24 terms, okay, and -- at the time that you filed that, did
25 you still believe Motion Number 1 was reasonable and in

1 your best business judgment?

2 A. I believe that Number 2 was reasonable, and
3 Number 1, at that point in time, like I testified
4 before, dynamics, and the landscape had changed.

5 Q. So on May 17th, you believe Motion Number 1
6 would not have been reasonable?

7 A. I think on May 17th, I think Number 2 was more
8 reasonable.

9 Q. Well, say that again? I'm sorry? Was more
10 reasonable?

11 A. I think Number 2 -- I think Number 2 was more
12 reasonable than Number 1 would have been at that point
13 in time.

14 Q. Okay. And when you negotiated Number 2, how
15 much did you ask Prosperity Bank to kick in for the
16 settlement of the Prosperity payments?

17 A. We typically ask for the whole boat, to start
18 with.

19 Q. Okay. So you believe you asked for 513?

20 A. I don't know that we did. I don't know. You
21 know, we probably took something off of it for fees, so
22 we might have asked for 400. Sitting here today, I'm
23 not positive.

24 Q. Give me one sec.

25 Mr. Seidel, I apologize for the delay.

1 I'm going to show you what's going to be introduced
2 as -- it's Bates stamp 1160. I'll tell you when it's
3 populated.

4 MR. RUKAVINA: It will be Number 20, and
5 you'll tell me when it's in there?

6 (EXHIBIT NO. 20, e-mail chain, beginning
7 with e-mail from Davor Rukavina dated
8 May 9, 2023, was marked for identification
9 and attached hereto.)

10 MR. LANGLEY: Exhibit 20 is introduced.

11 A. Okay. It's here, and I'm bringing it up.

12 Q. (BY MR. HILLYER) Okay.

13 A. Do you want me to read it?

14 Q. No.

15 Sir, that's a May 9th e-mail from your
16 counsel to Prosperity Bank counsel; that's approximately
17 eight days before the second motion was filed. You can
18 just go down to -- your counsel proposed no release for
19 the Prosperity funds, or Prosperity pays \$200,000. Do
20 you see that?

21 A. Yes.

22 Q. Okay. I believe you just testified you ask for
23 the moon and start high. Do you want to -- does this
24 change your opinion?

25 A. Yeah. Looks like we were -- looks like this is

1 what we asked for.

2 Q. Okay. So you asked -- you asked for --
3 for 200, and you got 200?

4 A. Yeah. I don't know if there was prior
5 communications asking for more, but that's what this
6 says.

7 Q. Okay.

8 A. Might have been many oral communications. I
9 don't know.

10 Q. Okay. But if there were communications asking
11 for more than 200, they would be in your discovery,
12 correct?

13 A. If they were written.

14 Q. Okay.

15 A. I don't know -- I do things on the phone all
16 the time: Feeling out the opponent, seeing how much
17 they'll pay, get a feel for it -- "Hey, how about five?
18 How about you pay for the whole thing? Ha ha ha."

19 I've never done that. A settlement is not
20 paying everything. And then back and forth.

21 But this written document talks about 200.

22 Q. Okay. So go ahead and take your time to read
23 it. Does this -- does that e-mail reference or
24 insinuate a previous offer at all?

25 A. I do not see that.

1 Q. Okay. What would make you think that this
2 isn't your first offer, the trustee's first offer of
3 \$200,000?

4 A. I don't know what would make me think that.

5 Q. Okay. So again, when you came back to the bank
6 on the 513 Prosperity payment settlement, why did you --
7 why did you offer 200 -- why did you authorize an offer
8 of \$200,000?

9 A. Because we thought that was a range of
10 reasonableness for a resolution of this particular
11 claim, in light of the -- the landscape of the case and
12 everything else going on.

13 Q. So given what we've discussed about the
14 likelihood of success and your testimony about "decent,"
15 "not bad," and now we're at \$200,000; and that, I would
16 say, is -- I did the math for you. It's 38.9 percent.
17 It's a 39 percent settlement on the \$513,000.

18 A. Okay.

19 Q. Sound correct? Okay.

20 A. Sounds correct.

21 Q. Okay. And I'm going to jump forward ahead for
22 a second. So is it my understanding that the Prosperity
23 payment amount that is being part of your third motion
24 is \$539,000?

25 A. I did not understand that. Can you give me

1 that again?

2 Q. Sure.

3 The Prosperity payment defined amount, did
4 it change from 513 to 539 from Motion 2 to Motion 3?

5 A. I think that's right. I think that's my
6 recollection.

7 Q. Okay. So again, I'm -- I'm asking you -- I'm
8 going to use the actual number, 539. So that is a --
9 it's a 37 percent recovery on the Prosperity payments.
10 Does that sound right?

11 A. Yes.

12 Q. Okay. What makes --

13 A. Yes.

14 Q. Okay. Given what you know now, what makes
15 37 percent a reasonable settlement payment for the
16 Prosperity payments?

17 A. Cost of litigation. The costs that have been
18 incurred by parties in this case. Risk of litigation.
19 Defenses raised. The Ninth Circuit line of cases with
20 regard to what happens with fully collateralized
21 payments out, and whether or not they come back in
22 subject to liens, etc. The Judge Larson opinion that
23 seems to indicate that may be her thinking on the
24 subject as well.

25 Q. Okay. So let's go through each of those,

1 instead of just going all the way through.

2 So -- so you think 37 percent, that
3 payment -- and before I ask that question, I should say
4 this: Would you have ever gotten that \$200,000 payment
5 from Prosperity but for the objection of FedEx and
6 ARRIS?

7 A. I think I mentioned earlier that FedEx and
8 ARRIS were instrumental in assisting us leverage that
9 money. And I don't know that we would have gotten it
10 without -- without their input and good help.

11 Q. Okay. Well, I -- I want to clarify: Do you --
12 what do you consider "good help," when you say that?

13 A. Being able to go to Prosperity and tell them
14 that "We're not going to be able to get this across the
15 finish line because I've got creditors that say you need
16 to pay."

17 Q. Okay. So --

18 A. "And this is not -- this is not going to get
19 done, and we need money in here, and whether you like it
20 or not, whether or not you think you've got defenses,
21 you're going to have to pay to get out of this."

22 Q. So again I ask you, if FedEx, you deem it good
23 help, with that -- why wouldn't -- why wasn't FedEx or
24 ARRIS involved in any way regarding the \$200,000 change
25 to the settlement motion?

1 A. I don't know that they were or were not on
2 that.

3 Q. Okay. Well, do you normally communicate and
4 have an -- offers in status with someone that you
5 consider being great help?

6 A. I mean, in this case, I think we tried to
7 keep -- you know, there was a while there where we were
8 having calls with the parties, all the various
9 creditors, etc., trying to keep people informed of
10 what's going on. There's a hundred things going on, as
11 you know in this case, with regard to AMRR, etc. And we
12 tried to keep parties up to date.

13 We've got two -- we've got one trustee.
14 We've got Davor Rukavina, who's probably the busiest
15 lawyer in town. And we do the best we can.

16 Q. Okay. So let's -- you went through a laundry
17 list, Mr. Seidel, of risks: Ninth Circuit, Larson, and
18 you did that before, and we tried to -- I'll revisit it.

19 So what -- settling for the \$200,000 for
20 the Prosperity payments of three -- 539 that we know
21 now, okay, what are -- when you say "risks," can you
22 give me the risks of filing suit against Prosperity,
23 related to that, with your knowledge of the deposition
24 testimony that you sat through last Wednesday.

25 A. Yeah, the risks are that Ninth Circuit line of

1 cases, like I mentioned. The Judge Larson opinion. The
2 fact that though the -- you -- you asked the banker with
3 regard to defenses, and he -- I don't remember him
4 saying -- talking about any. But we all know, at the
5 end of the day, it's the lawyers that speak on these
6 deals. And then the costs, delay, and risks, etc.

7 Q. Mr. Seidel, we can pull this up. So the
8 bank -- Prosperity Bank filed a reply that was an
9 exhibit in their deposition. And we can populate it, if
10 you -- if you want.

11 MR. HILLYER: Let's go ahead and do that,
12 Adam. Docket 278.

13 MR. RUKAVINA: Hey, Tim, it's 5:00; we're
14 probably going into the end game. Can we take a
15 restroom break?

16 MR. HILLYER: Yeah. That -- that's --

17 MR. RUKAVINA: Are we on mute?

18 MR. HILLYER: No, I'm off. I was trying
19 to help out.

20 It's Exhibit 21.

21 (EXHIBIT NO. 21, Prosperity Bank's Reply,
22 was marked for identification and attached
23 hereto.)

24 VIDEOGRAPHER: Okay. We're going off the
25 record. The time is approximately 4:57 p.m.

1 (Recess)

2 VIDEOGRAPHER: We're going back on the
3 record. The time is approximately 5:13 p.m.

4 Q (By MR. HILLYER) All right. Mr. Seidel, thank
5 you for the break.

6 What we've -- what I'm going to say is --
7 is we -- I believe we've reached an agreement. We're
8 going to break right now. We're going to continue --
9 leave your deposition open, and we're going to continue
10 it until 1:00 tomorrow, September 14th, at 1:00 p.m.
11 Central Time to reconvene.

12 Is that acceptable to you?

13 A. Yes, sir.

14 Q. Okay.

15 MR. HILLYER: Is that acceptable to all --
16 all other counsel?

17 MR. SCHOTTENSTEIN: Yes.

18 MR. RUKAVINA: Yes.

19 UNIDENTIFIED SPEAKER: Yes.

20 MR. HILLYER: All right. Thank you so
21 much for your consideration.

22 We'll consider this -- let's go off the
23 record and go take care of our stuff, and we'll
24 reconvene tomorrow. And thank you for your time, and
25 good luck on the hearing.

1 MR. RUKAVINA: I take it we're going to
2 get a different link from Veritext?

3 MR. HILLYER: I don't know that. That's
4 way outside of my scope.

5 VIDEOGRAPHER: Yeah, I'm going to call
6 them as well.

7 This concludes the videotaped deposition.
8 The time is approximately 5:14 p.m.

9 (Deposition adjourned at 5:14 p.m.)

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CERTIFICATE OF REPORTER

I, the undersigned, a Registered Merit
Reporter, do hereby certify:

That the foregoing proceedings were taken
before me at the time and place herein set forth;
that any witnesses in the foregoing proceedings,
prior to testifying, were administered an oath; that
a record of the proceedings was made by me using
machine shorthand which was thereafter transcribed
under my direction; that the foregoing transcript is
a true record of the testimony given.

That before the completion of the
deposition, review of the transcript [] was [x] was
not requested. If requested, any changes made by
the deponent (and provided to the reporter) during
the period allowed are appended hereto.

I further certify that I am neither
financially interested in the action nor a relative
or employee of any attorney or any party to this
action.

IN WITNESS WHEREOF, I have this date
subscribed my name.

Dated: September 25, 2023



PATRICIA NILSEN

CSR No. 11813

DECLARATION OF PENALTY OF PERJURY

I, SCOTT SEIDEL, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on September 13, 2023; that I have made such corrections as appear noted herein; that my testimony as contained herein, as corrected, is true and correct.

DATED this ____ day of _____, 20____, at
_____, _____.

SCOTT SEIDEL

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SCOTT SEIDEL

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SCOTT SEIDEL

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted

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